

## **2013 LEGISLATIVE PRORITIES FOR THE** **DEPARTMENT OF BANKING**

**1. An Act Concerning Public Deposits -**

The bill amends the public deposit laws based on the recommendations of a task force established by the Banking Commissioner to study and update these laws. The legislation will afford greater protection to state and municipal deposits.

**2. An Act Concerning Consumer Licenses -**

This proposal authorizes the Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the Commissioner and to make other technical and conforming changes as described above.

**3. An Act Concerning Banks -**

The proposal addresses the enforcement authority of the Commissioner related to officers of banks and clarifies oversight of loan production offices outside the state. The bill also makes certain technical corrections.

**4. An Act Concerning Money Transmission, Mortgage Servicers and Consumer Collection Agencies -**

This bill makes numerous changes to the consumer credit statutes in an effort to better protect the consumer. Most notably, it creates a new regulatory scheme to be administered by the Banking Commissioner governing persons that act as mortgage servicers. It also enhances regulatory requirements of money transmission licensees and makes other conforming changes consistent with industry standards.

**5. An Act Concerning the Connecticut Uniform Securities Act -**

The purpose of this bill is to update the Connecticut Uniform Securities Act and incorporate certain provisions of the Revised Uniform Securities Act.

The bills are quite extensive in nature and these summaries are **very brief** overviews of the legislation.

## Agency Legislative Proposal - 2013 Session

**Document Name:** AAC Public Deposits.

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:** Department of Banking

**Liaison:** James Heckman

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**Lead agency division requesting this proposal:** Financial Institutions Division

**Agency Analyst/Drafter of Proposal:** Nirja Savill

### Title of Proposal

An Act Concerning Public Deposits

**Statutory Reference** Sections 36a-330(3), 36a-333 and 36a-338

### Proposal Summary

The proposal amends the definition of “eligible collateral” in Section 36a-330(3).  
The proposal amends Section 36a-333 to update the collateralization requirements for public deposits.  
The proposal amends Section 36a-338 to make conforming changes.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### • Reason for Proposal

The amendments to the public deposit laws are based on the recommendations of a task force established by the Banking Commissioner to study and update these laws and will afford greater protection to state and municipal deposits.

- **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**
- **Agencies Affected** None other than this Department

**Agency Name:** Office of the State Treasurer

**Agency Contact (name, title, phone):** Lawrence Wilson

**Date Contacted:**

**Approve of Proposal** ☒ **YES** ☐ **NO** ☐ **Talks Ongoing**

### Summary of Affected Agency's Comments

**Will there need to be further negotiation?** ☐ **YES** ☒ **NO**

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

None

## AN ACT CONCERNING PUBLIC DEPOSITS

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (3) of section 36a-330 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) "Eligible collateral" means [(A) United States treasury bills, notes and bonds, (B) United States government agency securities, (C) United States agency variable-rate securities, (D) mortgage pass-through or participation certificates or similar securities, (E) performing one-to-four-family residential mortgage loans that meet the following criteria: (i) The mortgage loan has a loan-to-value ratio which is less than or equal to eighty per cent for loans without private mortgage insurance, or a loan-to-value ratio which is less than or equal to ninety-five per cent for loans with private mortgage insurance; and (ii) the mortgage loan has a payment history of not more than one payment over thirty days in arrears during the past twelve consecutive months or, if the loan has a payment history of less than twelve months in duration, the loan meets the documentation requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided, in the case of a subsequent default under any such mortgage loan that continues uncured for more than sixty days, such loan shall no longer qualify as eligible collateral and shall be replaced by a performing mortgage loan that meets the criteria set forth in this subdivision, and (F) state and municipal bonds;] the following investments for which prices or values are quoted or are readily available: (A) General obligations that are guaranteed fully as to principal and interest by the United States or this state or for which the full faith and credit of the United States or this state is pledged for the payment of principal and interest; (B) general obligations of any agency of the United States, including government sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest; (C) mortgage pass-through or participation certificates or similar securities that have been issued or guaranteed by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association; (D) general

obligations of municipalities and states other than this state that are rated in the three highest rating categories by a rating agency recognized by the commissioner; and (E) revenue obligations for essential services, including education, transportation, emergency, water and sewer services of municipalities and states that are rated in the three highest rating categories by a rating agency recognized by the commissioner and that are determined to be a prudent investment by the governing board of the qualified public depository, by a management committee or board committee appointed by such governing board or by an officer appointed by such governing board, management committee or board committee;

Sec. 2. Section 36a-333 of the 2012 supplement to the general statutes, as amended by sections 37, 38 and 39 of Public Act 12-96 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) [To] (1) Except as provided in subdivision (2) of this subsection, to secure public deposits, each qualified public depository that is not under a formal regulatory order shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral in an amount at least equal to the following percentage of all uninsured public deposits held by the depository:

[(1)] (A) For any [qualified public] depository that is a bank or out-of-state bank having a tier one leverage ratio of six per cent or greater and a risk-based capital ratio of [ten] twelve per cent or greater, and for any depository that is a credit union or federal credit union having a net worth ratio of eight per cent or greater, a sum equal to ten per cent; [of all uninsured public deposits held by the depository; (2)]

(B) for any [qualified public] depository that is a bank or out-of-state bank having a tier one leverage ratio of less than six per cent but greater than or equal to five per cent and a risk-based capital ratio of less than [ten] twelve per cent but greater than or equal to [eight] ten per cent, and for any depository that is a credit union or federal credit union having a net worth ratio of less than eight per cent but greater than or equal to seven per cent, a sum equal to twenty-five per cent; [of all uninsured public deposits held by the depository; (3)] and (C) for any [qualified public] depository that is a bank or out-of-state bank having a tier one leverage ratio of less than five per cent and a risk-based capital ratio of less than [eight] ten per cent [but greater than or equal to three per cent,] and for any depository that is a credit union or federal

credit union having a net worth ratio of less than seven per cent, a sum equal to one hundred ~~ten~~ per cent.  
[of all uninsured public deposits held by the depository; (4) for any qualified public depository having a risk-based capital ratio of less than three per cent, and, notwithstanding the provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository which has been conducting business in this state for a period of less than two years except for a qualified public depository that is a successor institution to a qualified public depository which conducted business in this state for two years or more, a sum equal to one hundred twenty per cent of all uninsured public deposits held by the depository; provided, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater than the minimum amounts required under subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding the risk-based capital ratio provisions of subdivisions (1) to (3) , inclusive, of this subsection, for any qualified public depository that is an uninsured bank, a sum equal to one hundred twenty per cent of all public deposits held by the depository; and (6) notwithstanding the risk-based capital ratio provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository that is subject to an order to cease and desist, consent order or a preliminary warning letter, or has entered into a stipulation and agreement, memorandum of understanding or a letter of understanding and agreement with a bank or credit union supervisor, a sum equal to one hundred twenty per cent of all uninsured public deposits held by the depository, or, in the case of such a qualified public depository that satisfies the requirements of subsection (f) of this section, a sum equal to one hundred per cent of all uninsured public deposits held by the depository.]

(2) Notwithstanding the provisions of subdivisions (1) and (3) of this subsection, to secure public deposits, each qualified public depository that (A) has been conducting business in this state for a period of less than two years except for a depository that is a successor institution to a depository which conducted business in this state for two years or more, or (B) is an uninsured bank, shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral

in an amount at least equal to one hundred twenty per cent of all uninsured public deposits held by the depository.

(3) Except as provided in subdivision (2) of this subsection, to secure public deposits, each qualified public depository that, on or after the effective date of this act, is under a formal regulatory order shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral in an amount at least equal to one hundred ten per cent of all uninsured public deposits held by the depository. Notwithstanding the provisions of this subdivision, if the order is not related to capital, asset quality, earnings or liquidity and the depository notifies each of its public depositors of the issuance of such order, such depository may reduce the amount of eligible collateral it is required to maintain under this subdivision to an amount at least equal to the following percentage of all uninsured deposits held by the depository: (A) For a depository that is a bank or out-of-state bank having a tier one leverage ratio of seven and one-half per cent or greater and a risk-based capital ratio of fourteen per cent or greater, and for depository that is a credit union or federal credit union having a net worth ratio of nine and one-half per cent or greater, a sum equal to fifty per cent, and (B) for a depository that is a bank or out-of-state bank having a tier one leverage ratio of less than seven and one-half per cent but greater than or equal to five per cent and a risk-based capital ratio of less than fourteen per cent but equal to or greater than ten per cent, and for a depository that is a credit union or federal credit union having a net worth ratio of less than nine and one-half per cent but equal to or greater than seven per cent, a sum equal to seventy-five per cent.

(4) Notwithstanding the provisions of this subsection, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater than the minimum amounts required under [subdivisions (1) to (6), inclusive,] subdivision (1) or (3) of this subsection, as applicable. For purposes of this subsection, the amount of all uninsured public deposits held by the depository shall be determined at the close of business on the day of receipt of any public deposit and any deficiency in the amount of eligible collateral required under this section shall be cured not later than the close of business on the following business day. For purposes of this subsection,

the depository's tier one leverage ratio and risk-based capital ratio or net worth ratio shall be determined, in accordance with applicable federal regulations and regulations adopted by the commissioner in accordance with chapter 54, based on the most recent quarterly call report, provided [(A)] if, during any calendar quarter after the issuance of such report, the depository experiences a decline in its tier one leverage ratio, risk-based capital ratio or net worth ratio to a level that would require the depository to maintain a higher amount of eligible collateral under [subdivisions (1) to (4), inclusive, or subdivision (6)] subdivision (1) or (3) of this subsection, the depository shall increase the amount of eligible collateral maintained by it to the minimum required under [subdivisions (1) to (4), inclusive, or subdivision (6)] subdivision (1) or (3) of this subsection, as applicable, based on such lower tier one leverage ratio, risk-based capital ratio or net worth ratio and shall notify the commissioner of its actions. [; and (B) if, during any calendar quarter after the issuance of such report, the commissioner reasonably determines that the depository's risk-based capital ratio is likely to decline to a level that would require the depository to maintain a higher amount of eligible collateral under subdivisions (1) to (4), inclusive, or subdivision (6) of this subsection, the commissioner may require that the depository increase the amount of eligible collateral maintained by it to the minimum required under subdivisions (1) to (4), inclusive, or subdivision (6) of this subsection, as applicable, based on the commissioner's determination of such lower risk-based capital ratio. For purposes of determining the minimum market value of the eligible collateral under subsection (e) of this section, a qualified public depository shall apply the collateral ratio using uninsured public deposits.] The commissioner may, at any time, require the depository to increase its eligible collateral to an amount greater than that required by subdivision (1) or (3) of this subsection, as applicable, up to a maximum amount of one hundred twenty per cent, if the commissioner reasonably determines that such increase is necessary for the protection of public deposits. If the commissioner determines that such increase in eligible collateral is no longer necessary for the protection of public deposits, the commissioner may allow the depository to adjust the amount downward, as the circumstances warrant, to an amount not lower than the minimum amount required by subdivision (1) or (3) of this subsection, as applicable.



(5) For purposes of this subsection, "formal regulatory order" means a written agreement related to enforcement, including a letter of understanding or agreement, or written order, that a supervisory agency is required to publish, or publishes on its website, but does not include any written agreement or written order under which the sole obligation of the depository is to pay a civil money penalty, fine or restitution.

(b) Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of five per cent or greater or a risk-based capital ratio of [eight] ten per cent or greater shall transfer eligible collateral maintained under subsection (a) of this section to its own trust department, provided such trust department is located in this state unless the commissioner approves otherwise, to the trust department of another financial institution, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of less than five percent or a risk-based capital ratio of less than [eight] ten per cent, and each qualified public depository that is a credit union or federal credit union shall transfer eligible collateral maintained under subsection (a) of this section to the trust department of a financial institution that is not owned or controlled by the depository or by a holding company owning or controlling the depository, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Such transfers of eligible collateral shall be made in a manner prescribed by the commissioner. [Eligible collateral shall be valued at market value or as determined by the commissioner if market value is not readily determinable, and the] The qualified public depository shall determine and adjust the market value of such eligible collateral [shall be determined and adjusted on a quarterly] on a monthly basis. Without the requirement of any further action, the commissioner shall have, for the benefit of public depositors, a perfected security interest in all such eligible collateral held in such segregated trust accounts, granted pursuant to and in accordance with the terms of the agreement between the public depositor and the qualified public depository. Such security interest shall have priority over all other perfected security interests and liens. The commissioner

may, at any time, require the depository to value the collateral more frequently than monthly if the commissioner reasonably determines that such valuation is necessary for the protection of public deposits. Each holder of eligible collateral shall file with the commissioner, at the end of each calendar quarter, a report with the CUSIP number, description and par value of the each investment it holds as eligible collateral.

(c) The depository shall have the right to make substitutions of eligible collateral at any time without notice. The depository shall have the right to reduce the amount of eligible collateral maintained by it that is in excess of the amount required under subsection (a) of this section. [provided such reduction shall be determined based on the amount of all uninsured public deposits held by the depository and the depository's risk-based capital ratio as determined in accordance with said subsection (a). The depository shall provide written notice to its public depositors of any such reduction in the amount of eligible collateral maintained under subsection (a) of this section.]

[(d)] The income from the assets which constitute segregated eligible collateral shall belong to the depository without restriction.

[(e) Eligible collateral pledged to secure public deposits under subsection (a) of this section shall have a minimum market value as expressed in the following collateral ratios:

Form of Eligible Collateral Pledged	Collateral Ratio (Market value divided by public deposit plus accrued interest)
1. United States Treasury bills, notes and bonds	
A. Maturing in less than one year	102%
B. Maturing in one to five years	105%
C. Maturing in more than five years	110%
D. Zero-coupon treasury securities with maturities exceeding ten years	120%
2. Actively traded United States government agency securities	
A. Maturing in less than one year	103%
B. Maturing in one to five years	107%
C. Maturing in more than five years	115%

3. United States government agency variable rate securities	103%
4. Government National Mortgage Association mortgage pass-through or participation certificates or similar securities	
A. Current issues	115%
B. Older issues	120%
C. Issues for which prices are not quoted	125%
5. Other United States government securities	125%
6. Other mortgage pass-through or participation certificates or similar securities	125%
7. One-to-four family residential mortgages	125%
8. State and municipal bonds	
A. General obligation bonds	
i. Maturing in less than one year	102%
ii. Maturing in one to five years	107%
iii. Maturing in more than five years	110%
B. Revenue bonds	
i. Maturing in less than one year	105-110%
ii. Maturing in one to five years	110-120%
iii. Maturing in more than five years	120-130%

(f) A qualified public depository that is subject to an order to cease and desist, consent order or a preliminary warning letter, or has entered into a stipulation and agreement, memorandum of understanding or a letter of understanding and agreement with a bank or credit union supervisor, may maintain eligible collateral in a sum equal to or greater than one hundred per cent of all uninsured public deposits held by the depository, provided (1) the depository has a risk-based capital ratio of twelve per cent or greater, and (2) the depository satisfies the following conditions, to the extent applicable: (A) The depository may not pledge eligible collateral in the form described in subsection (e)6. of this section, except for mortgage pass-through or participation certificates or similar securities that have been issued or guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and for which prices are quoted; (B) the depository may not pledge eligible collateral in the form described in subsection (e)4. C. of this section; (C) if the public depository pledges eligible collateral in the form described in subsection (e)7. of this section, the collateral ratio for such mortgages shall be one hundred fifty per cent; and (D) if the public depository pledges eligible collateral in the form

described in subsection (e)8. of this section, such collateral shall be rated in the three highest rating categories by a rating service recognized by the commissioner. The depository may pledge any other eligible collateral that is not limited by subdivision (2) of this subsection.]

Sec. 3. Section 36a-338 of the 2012 supplement to the general statutes, as amended by section 42 of public act 12-96, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

On each call report date, each qualified public depository shall file with the commissioner a written report, certified under oath, indicating (1) the qualified public depository's tier one leverage ratio and risk-based capital ratio [and total capital] or net worth ratio, as determined in accordance with applicable federal regulations and regulations adopted by the commissioner in accordance with chapter 54, (2) the uninsured and total amount of public deposits held by the qualified public depository other than deposits that have been redeposited into the qualified public depository by another insured depository institution pursuant to a reciprocal deposit arrangement that makes such funds eligible for insurance coverage by the Federal Deposit Insurance Corporation or the National Credit Union Administration, (3) the [amount and nature] description and market value of any eligible collateral segregated and designated to secure the uninsured public deposits in accordance with sections 36a-330 to 36a-338, inclusive, and (4) the amount and the name of the issuer of any letter of credit issued pursuant to section 36a-337. Each depository shall furnish a copy of its most recent report to any public depositor having public funds on deposit in the depository, upon request of the depositor. Any public depository which refuses or neglects to furnish any report or give any information as required by this section shall no longer be a qualified public depository and shall be excluded from the right to receive public deposits.

*Statement of Purpose:* To update public deposit laws.

## Agency Legislative Proposal - 2013 Session

**Document Name:** 092812\_DOB\_ConsumerCreditLicenses.doc

### AAC CONSUMER CREDIT LICENSES

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:** Department of Banking

**Liaison:** James Heckman

**Phone:** (860) 240-8105

**E-mail:** james.heckman@ct.gov /

**Lead agency division requesting this proposal:** Consumer Credit Division

**Agency Analyst/Drafter of Proposal:** Stacey Valerio

### Title of Proposal

An Act Concerning Consumer Credit Licenses

**Statutory Reference** 36a-2, 36a-3, 36a-485, 36a-21, 36a-51(c), NEW, 36a-486(b)(2)

### Proposal Summary

Section 1 amends Section 36a-2 to provide a definition, for purposes of Title 36a, of “system” to mean the Nationwide Mortgage Licensing System and Registry, NMLS, NMLSR, or such other name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries.

Section 2 amends Section 36a-3 to make various technical and conforming changes.

Section 3 amends Section 36a-485 to delete the existing definition of “system”, which term is now re-defined to include financial services industries beyond the mortgage industry and is set forth in Section 36a-2 in this bill.

Section 4 amends Section 36a-21 to clarify that information on the system protected by confidentiality or privilege afforded by any federal or state law retains such protections when disclosed to the system, and to permit the sharing of any such confidential or privileged information with federal and state regulatory officials with either mortgage or other financial services industry oversight authority without the loss of any such protection or privilege.

Section 5 amends Section 36a-51(c) to address system-based surrenders in the event that license types other than mortgage license types are handled through the system.

Section 6 provides the Commissioner with the authority, in addition to any other duties imposed on him by law, to require persons engaged in any financial services industry subject to the Commissioner’s jurisdiction to be licensed or registered through the system and authorizes the system to receive and maintain such records in such event. It provides the Commissioner with additional authority to, by order,

waive, modify or add requirements as reasonably necessary to enable expanded participation in the system, consistent with the public interest and system requirements and capabilities. Section 6 also generally provides for the nonrefundability of fees paid to the system, imposes requirements that filings be made consistent with system procedures and requirements, requires applicants and licensees to timely and accurately submit any required reports and provides for a challenge procedure regarding factual accuracy of information on the system.

Section 7 narrows the scope of the exemption for certain attorneys from mortgage loan originator licensure in Section 36a-486(b)(2) to certain Connecticut licensed attorneys, consistent with other attorney exemptions set forth in Title 36a.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

This proposal authorizes the Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the Commissioner and to make other technical and conforming changes as described above.

- **Origin of Proposal**        X   New Proposal             Resubmission

- **Agencies Affected**      None other than this Department

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal             YES             NO             Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?             YES             NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

None

## AN ACT CONCERNING CONSUMER CREDIT LICENSES

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-2 of the 2012 Supplement to the General Statutes, as amended by section 18 of Public Act 12-96, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this title, unless the context otherwise requires:

- (1) "Affiliate" of a person means any person controlling, controlled by, or under common control with, that person;
- (2) "Applicant" with respect to any license or approval provision pursuant to this title means a person who applies for that license or approval;
- (3) "Automated teller machine" means a stationary or mobile unattended device, including a satellite device but excluding a point of sale terminal, at which banking transactions, including, but not limited to, deposits, withdrawals, advances, payments or transfers, may be conducted;
- (4) "Bank" means a Connecticut bank or a federal bank;
- (5) "Bank and trust company" means an institution chartered or organized under the laws of this state as a bank and trust company;
- (6) "Bank holding company" has the meaning given to that term in 12 USC Section 1841(a), as amended from time to time, except that the term "bank", as used in 12 USC Section 1841(a) includes a bank or out-of-state bank that functions solely in a trust or fiduciary capacity;
- (7) "Capital stock" when used in conjunction with any bank or out-of-state bank means a bank or out-of-state bank that is authorized to accumulate funds through the issuance of its capital stock;
- (8) "Client" means a beneficiary of a trust for whom the Connecticut bank acts as trustee, a person for whom the Connecticut bank acts as agent, custodian or bailee, or other person to whom a Connecticut bank owes a duty or obligation under a trust or other account administered by such Connecticut bank, regardless of whether such Connecticut bank owes a fiduciary duty to the person;

(9) "Club deposit" means deposits to be received at regular intervals, the whole amount deposited to be withdrawn by the owner or repaid by the bank in not more than fifteen months from the date of the first deposit, and upon which no interest or dividends need to be paid;

(10) "Commissioner" means the Banking Commissioner and, with respect to any function of the commissioner, includes any person authorized or designated by the commissioner to carry out that function;

(11) "Company" means any corporation, joint stock company, trust, association, partnership, limited partnership, unincorporated organization, limited liability company or similar organization, but does not include (A) any corporation the majority of the shares of which are owned by the United States or by any state, or (B) any trust which by its terms shall terminate within twenty-five years or not later than twenty-one years and ten months after the death of beneficiaries living on the effective date of the trust;

(12) "Connecticut bank" means a bank and trust company, savings bank or savings and loan association chartered or organized under the laws of this state;

(13) "Connecticut credit union" means a cooperative, nonprofit financial institution that (A) is organized under chapter 667 and the membership of which is limited as provided in section 36a-438a, (B) operates for the benefit and general welfare of its members with the earnings, benefits or services offered being distributed to or retained for its members, and (C) is governed by a volunteer board of directors elected by and from its membership;

(14) "Connecticut credit union service organization" means a credit union service organization that is incorporated under the laws of this state, located in this state and established by at least one Connecticut credit union;

(15) "Consolidation" means a combination of two or more institutions into a new institution; all institutions party to the consolidation, other than the new institution, are "constituent" institutions; the new institution is the "resulting" institution;



(16) "Control" has the meaning given to that term in 12 USC Section 1841(a), as amended from time to time;

(17) "Credit union service organization" means an entity organized under state or federal law to provide credit union service organization services primarily to its members, to Connecticut credit unions, federal credit unions and out-of-state credit unions other than its members, and to members of any such other credit unions;

(18) "Customer" means any person using a service offered by a financial institution;

(19) "Demand account" means an account into which demand deposits may be made;

(20) "Demand deposit" means a deposit that is payable on demand, a deposit issued with an original maturity or required notice period of less than seven days or a deposit representing funds for which the bank does not reserve the right to require at least seven days' written notice of the intended withdrawal, but does not include any time deposit;

(21) "Deposit" means funds deposited with a depository;

(22) "Deposit account" means an account into which deposits may be made;

(23) "Depositor" includes a member of a mutual savings and loan association;

(24) "Director" means a member of the governing board of a financial institution;

(25) "Equity capital" means the excess of a Connecticut bank's total assets over its total liabilities, as defined in the instructions of the federal Financial Institutions Examination Council for consolidated reports of condition and income;

(26) "Executive officer" means every officer of a Connecticut bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policy-making functions of such bank, regardless of whether such officer has an official title or whether that title contains a designation of assistant and regardless of whether such officer is serving without salary or other compensation. The president, vice president, secretary and treasurer of such bank are deemed to be executive officers, unless, by resolution of the governing board or by such bank's bylaws, any such

officer is excluded from participation in major policy-making functions, otherwise than in the capacity of a director of such bank, and such officer does not actually participate in such policy-making functions;

(27) "Federal agency" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(28) "Federal bank" means a national banking association, federal savings bank or federal savings and loan association having its principal office in this state;

(29) "Federal branch" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(30) "Federal credit union" means any institution chartered or organized as a federal credit union pursuant to the laws of the United States having its principal office in this state;

(31) "Fiduciary" means a person undertaking to act alone or jointly with others primarily for the benefit of another or others in all matters connected with its undertaking and includes a person acting in the capacity of trustee, executor, administrator, guardian, assignee, receiver, conservator, agent, custodian under the Connecticut Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting in any other similar capacity.

(32) "Financial institution" means any Connecticut bank, Connecticut credit union, or other person whose activities in this state are subject to the supervision of the commissioner, but does not include a person whose activities are subject to the supervision of the commissioner solely pursuant to chapter 672a, 672b or 672c or any combination thereof;

(33) "Foreign bank" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(34) "Foreign country" means any country other than the United States and includes any colony, dependency or possession of any such country;

(35) "Governing board" means the group of persons vested with the management of the affairs of a financial institution irrespective of the name by which such group is designated;

(36) "Holding company" means a bank holding company or a savings and loan holding company, except, as used in sections 36a-180 to 36a-191, inclusive, "holding company" means a company that controls a bank;

(37) "Insured depository institution" has the meaning given to that term in 12 USC Section 1813, as amended from time to time;

(38) "Licensee" means any person who is licensed or required to be licensed pursuant to the applicable provisions of this title;

(39) "Loan" includes any line of credit or other extension of credit;

(40) "Loan production office" means an office of a bank or out-of-state bank, other than a foreign bank, whose activities are limited to loan production and solicitation;

(41) "Merger" means the combination of one or more institutions with another which continues its corporate existence; all institutions party to the merger are "constituent" institutions; the merging institution which upon the merger continues its existence is the "resulting" institution;

(42) "Mutual" when used in conjunction with any institution that is a bank or out-of-state bank means any such institution without capital stock;

(43) "Mutual holding company" means a mutual holding company organized under sections 36a-192 to 36a-199, inclusive, and unless otherwise indicated, a subsidiary holding company controlled by a mutual holding company organized under sections 36a-192 to 36a-199, inclusive;

(44) "Out-of-state" includes any state other than Connecticut and any foreign country;

(45) "Out-of-state bank" means any institution that engages in the business of banking, but does not include a bank, Connecticut credit union, federal credit union or out-of-state credit union;

(46) "Out-of-state credit union" means any credit union other than a Connecticut credit union or a federal credit union;

(47) "Out-of-state trust company" means any company chartered to act as a fiduciary but does not include a company chartered under the laws of this state, a bank, an out-of-state bank, a Connecticut credit union, a federal credit union or an out-of-state credit union;

(48) "Person" means an individual, company, including a company described in subparagraphs (A) and (B) of subdivision (11) of this section, or any other legal entity, including a federal, state or municipal government or agency or any political subdivision thereof;

(49) "Point of sale terminal" means a device located in a commercial establishment at which sales transactions can be charged directly to the buyer's deposit, loan or credit account, but at which deposit transactions cannot be conducted;

(50) "Prepayment penalty" means any charge or penalty for paying all or part of the outstanding balance owed on a loan before the date on which the principal is due and includes computing a refund of unearned interest by a method that is less favorable to the borrower than the actuarial method, as defined by Section 933(d) of the Housing and Community Development Act of 1992, 15 USC 1615(d), as amended from time to time;

(51) "Reorganized savings bank" means any savings bank incorporated and organized in accordance with sections 36a-192 and 36a-193;

(52) "Reorganized savings and loan association" means any savings and loan association incorporated and organized in accordance with sections 36a-192 and 36a-193;

(53) "Reorganized savings institution" means any reorganized savings bank or reorganized savings and loan association;

(54) "Representative office" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(55) "Reserves for loan and lease losses" means the amounts reserved by a Connecticut bank against possible loan and lease losses as shown on the bank's consolidated reports of condition and income;

(56) "Retail deposits" means any deposits made by individuals who are not "accredited investors", as defined in 17 CFR 230.501(a);

(57) "Satellite device" means an automated teller machine which is not part of an office of the bank, Connecticut credit union or federal credit union which has established such machine;

(58) "Savings account" means a deposit account, other than an escrow account established pursuant to section 49-2a, into which savings deposits may be made and which account must be evidenced by periodic statements delivered at least semiannually or by a passbook;

(59) "Savings and loan association" means an institution chartered or organized under the laws of this state as a savings and loan association;

(60) "Savings bank" means an institution chartered or organized under the laws of this state as a savings bank;

(61) "Savings deposit" means any deposit other than a demand deposit or time deposit on which interest or a dividend is paid periodically;

(62) "Savings and loan holding company" has the meaning given to that term in 12 USC Section 1467a, as amended from time to time;

(63) "Share account holder" means a person who maintains a share account in a Connecticut credit union, federal credit union or out-of-state credit union that maintains in this state a branch, as defined in section 36a-435b;

(64) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands;

(65) "State agency" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(66) "State branch" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(67) "Subsidiary" has the meaning given to that term in 12 USC Section 1841(d), as amended from time to time;

(68) "Subsidiary holding company" means a stock holding company, controlled by a mutual holding company, that holds one hundred per cent of the stock of a reorganized savings institution;

(69) "Supervisory agency" means: (A) The commissioner; (B) the Federal Deposit Insurance Corporation; (C) the Resolution Trust Corporation; (D) the Office of Thrift Supervision; (E) the National Credit Union Administration; (F) the Board of Governors of the Federal Reserve System; (G) the United States Comptroller of the Currency; (H) the Bureau of Consumer Financial Protection; and (I) any successor to any of the foregoing agencies or individuals;

(70) "System" means the Nationwide Mortgage Licensing System and Registry, NMLS, NMLSR, or such other name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries;

[(70)] (71) "Time account" means an account into which time deposits may be made;

[(71)] (72) "Time deposit" means a deposit that the depositor or share account holder does not have a right and is not permitted to make withdrawals from within six days after the date of deposit, unless the deposit is subject to an early withdrawal penalty of at least seven days' simple interest on amounts withdrawn within the first six days after deposit, subject to those exceptions permissible under 12 CFR Part 204, as amended from time to time;

[(72)] (73) "Trust bank" means a Connecticut bank organized to function solely in a fiduciary capacity; and

[(73)] (74) "Uninsured bank" means a Connecticut bank that does not accept retail deposits and for which insurance of deposits by the Federal Deposit Insurance Corporation or its successor agency is not required.

Sec. 2. Section 36a-3 of the 2012 Supplement to the General Statutes, as amended by section 6 of Public Act 12-96, is repealed and the following substituted in lieu thereof (*Effective from passage*):

Other definitions applying to this title or to specified parts thereof and the sections in which they appear are:

"Account". Sections 36a-155 and 36a-365.

"Additional proceeds". Section 36a-746e.  
"Administrative expense". Section 36a-237.  
"Advance fee". Sections 36a-485, as amended by this act, and 36a-615.  
"Advertise", "advertisement" or "advertising". Section 36a-485, as amended by this act.  
"Agency bank". Section 36a-285.  
"Agent". Section 36a-494.  
"Alternative mortgage loan". Section 36a-265.  
"Amount financed". Section 36a-690.  
"Annual percentage rate". Section 36a-690.  
"Annual percentage yield". Section 36a-316.  
"Annuities". Section 36a-455a.  
"Applicant". Section 36a-736.  
"APR". Section 36a-746a.  
"Assessment area". Section 36a-37.  
"Assets". Section 36a-70.  
"Associate". Section 36a-184.  
"Associated member". Section 36a-458a.  
"Bank". Section 36a-30.  
"Bankers' bank". Section 36a-70.  
"Banking business". Section 36a-425.  
"Basic services". Section 36a-437a.  
"Billing cycle". Section 36a-565.  
"Bona fide nonprofit organization". [Section] Sections 36a-487 and [section] 36a-655.  
"Branch". Sections 36a-145, 36a-410 and 36a-435b.  
"Branch office". Section 36a-485, as amended by this act.  
"Branch or agency net payment entitlement". Section 36a-428n.  
"Branch or agency net payment obligation". Section 36a-428n.  
"Broker". Section 36a-746a.  
"Business and industrial development corporation". Section 36a-626.  
"Business and property in this state". Section 36a-428n.  
"Capital". Section 36a-435b.  
"Cash advance". Section 36a-564.  
"Cash price". Section 36a-770.  
"Certificate of incorporation". Section 36a-435b.  
"CHEA loan". Section 36a-760.  
"Clerical or support duties". Section 36a-485, as amended by this act.  
"Closely related activities". Sections 36a-250 and 36a-455a.  
"Collective managing agency account". Section 36a-365.  
"Commercial vehicle". Section 36a-770.  
"Community bank". Section 36a-70.  
"Community credit union". Section 36a-37.  
"Community development bank". Section 36a-70.  
"Community reinvestment performance". Section 36a-37.  
"Connecticut holding company". Sections 36a-53 and 36a-410.  
"Consolidate". Section 36a-145.  
"Construction loan". Section 36a-458a.  
"Consumer". Sections 36a-155, 36a-676 and 36a-695.  
"Consumer Credit Protection Act". Section 36a-676.  
"Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.  
"Consumer collection agency". Section 36a-800.  
"Consummation". Section 36a-746a.

"Control person". Section 36a-485, as amended by this act.  
"Controlling interest". Section 36a-276.  
"Conventional mortgage rate". Section 36a-760.  
"Corporate". Section 36a-435b.  
"Credit". Sections 36a-645 and 36a-676.  
"Credit manager". Section 36a-435b.  
"Creditor". Sections 36a-676, 36a-695 and 36a-800.  
"Credit card", "cardholder" and "card issuer". Section 36a-676.  
"Credit clinic". Section 36a-700.  
"Credit rating agency". Section 36a-695.  
"Credit report". Section 36a-695.  
"Credit sale". Section 36a-676.  
"Credit union service organization". Section 36a-435b.  
"Credit union service organization services". Section 36a-435b.  
"De novo branch". Section 36a-410.  
"Debt". Section 36a-645.  
"Debt adjustment". Section 36a-655.  
"Debt mutual fund". Sections 36a-275 and 36a-459a.  
"Debt securities". Sections 36a-275 and 36a-459a.  
"Debtor". Section 36a-655.  
"Deliver". Section 36a-316.  
"Deposit". Section 36a-316.  
"Deposit account". Section 36a-316.  
"Deposit account charge". Section 36a-316.  
"Deposit account disclosures". Section 36a-316.  
"Deposit contract". Section 36a-316.  
"Deposit services". Section 36a-425.  
"Depositor". Section 36a-316.  
"Depository institution". Section 36a-485, as amended by this act.  
"Derivative transaction". Section 36a-262.  
"Director". Section 36a-435b.  
"Dwelling". Section 36a-485, as amended by this act.  
"Earning period". Section 36a-316.  
"Electronic payment instrument". Section 36a-596.  
"Eligible collateral". Section 36a-330.  
"Eligible entity". Section 36a-34.  
"Employee". Section 36a-485, as amended by this act.  
"Entity". Section 36a-380.  
"Equity mutual fund". Sections 36a-276 and 36a-459a.  
"Equity security". Sections 36a-276 and 36a-459a.  
"Executive officer". Sections 36a-263 and 36a-469c.  
"Expedited Connecticut bank". Section 36a-70.  
"Experience in the mortgage business". Section 36a-488.  
"Federal banking agency". Section 36a-485, as amended by this act.  
"Federal Credit Union Act". Section 36a-435b.  
"Federal Home Mortgage Disclosure Act". Section 36a-736.  
"FHA loan". Section 36a-760.  
"Fiduciary". Section 36a-365.  
"Filing fee". Section 36a-770.  
"Finance charge". Sections 36a-690 and 36a-770.



"Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316, 36a-330, 36a-435b, 36a-736 and 36a-755.

"Financial records". Section 36a-41.

"First mortgage loan". Sections 36a-485, as amended by this act, 36a-705, 36a-715 and 36a-725.

"Foreign banking corporation". Section 36a-425.

"Fully indexed rate". Section 36a-760b.

"General facility". Section 36a-580.

"Global net payment entitlement". Section 36a-428n.

"Global net payment obligation". Section 36a-428n.

"Goods". Sections 36a-535 and 36a-770.

"Graduated payment mortgage loan". Section 36a-265.

"Guardian". Section 36a-365.

"High cost home loan". Section 36a-746a.

"Holder". Section 36a-596.

"Home banking services". Section 36a-170.

"Home banking terminal". Section 36a-170.

"Home improvement loan". Section 36a-736.

"Home purchase loan". Section 36a-736.

"Home state". Section 36a-410.

"Housing finance agency". Section 36a-487.

"Immediate family member". [Section] Sections 36a-435b and [section] 36a-485, as amended by this act.

"Independent contractor". Section 36a-485, as amended by this act.

"Individual". Section 36a-485, as amended by this act.

"Insider". Section 36a-454b.

"Installment loan contract". Sections 36a-535 and 36a-770.

"Insurance". Section 36a-455a.

"Insurance bank". Section 36a-285.

"Insurance department". Section 36a-285.

"Interest". Section 36a-316.

"Interest rate". Section 36a-316.

"Interim interest". Section 36a-746a.

"Lender". Sections 36a-746a, 36a-760 and 36a-770.

"Lessor". Section 36a-676.

"License". Section 36a-626.

"Licensee". Sections 36a-596 and 36a-626.

"Limited branch". Section 36a-145.

"Limited facility". Section 36a-580.

"Loan broker". Section 36a-615.

"Loan processor or underwriter". Section 36a-485, as amended by this act.

"Loss". Section 36a-330.

"Made in this state". Section 36a-770.

"Main office". Section 36a-485, as amended by this act.

"Managing agent". Section 36a-365.

"Manufactured home". Section 36a-457b.

"Material litigation". Section 36a-596.

"Member". Section 36a-435b.

"Member business loan". Section 36a-458a.

"Member in good standing". Section 36a-435b.

"Membership share". Section 36a-435b.

"Mobile branch". Sections 36a-145 and 36a-435b.

"Money order". Section 36a-596.  
"Money transmission". Section 36a-365.  
"Mortgage". Section 36a-760g.  
"Mortgage broker". Sections 36a-485, as amended by this act, 36a-705 and 36a-760.  
"Mortgage correspondent lender". Section 36a-485, as amended by this act.  
"Mortgage insurance". Section 36a-725.  
"Mortgage lender". Sections 36a-485, as amended by this act, 36a-705 and 36a-725.  
"Mortgage loan". Sections 36a-261, 36a-265, 36a-457b and 36a-736.  
"Mortgage loan originator". Section 36a-485, as amended by this act.  
"Mortgage rate lock-in". Section 36a-705.  
"Mortgage servicing company". Section 36a-715.  
"Mortgagor". Section 36a-715.  
"Motor vehicle". Section 36a-770.  
"Multiple common bond membership". Section 36a-435b.  
"Municipality". Section 36a-800.  
"Net outstanding member business loan balance". Section 36a-458a.  
"Net worth". Sections 36a-441a, 36a-458a and 36a-596.  
"Network". Section 36a-155.  
"Nonprime home loan". Section 36a-760.  
"Nonrefundable". Section 36a-498.  
"Nontraditional mortgage product". Section 36a-489a.  
"Note account". Sections 36a-301 and 36a-456b.  
"Office". Sections 36a-23, 36a-316 and 36a-485, as amended by this act.  
"Officer". Section 36a-435b.  
"Open-end credit plan". Section 36a-676.  
"Open-end line of credit". Section 36a-760.  
"Open-end loan". Section 36a-565.  
"Organization". Section 36a-800.  
"Out-of-state holding company". Section 36a-410.  
"Outstanding". Section 36a-596.  
"Passbook savings account". Section 36a-316.  
"Payment instrument". Section 36a-596.  
"Periodic statement". Section 36a-316.  
"Permissible investment". Section 36a-596.  
"Person". [Section] Sections 36a-184 and [section] 36a-485, as amended by this act.  
"Post". Section 36a-316.  
"Prepaid finance charge". Section 36a-746a.  
"Prime quality". Section 36a-596.  
"Principal amount of the loan". Section 36a-485, as amended by this act.  
"Processor". Section 36a-155.  
"Public deposit". Section 36a-330.  
"Purchaser". Section 36a-596.  
"Qualified financial contract". Section 36a-428n.  
"Qualified public depository" and "depository". Section 36a-330.  
"Real estate". Section 36a-457b.  
"Real estate brokerage activity". Section 36a-485, as amended by this act.  
"Records". Section 36a-17.  
"Registered mortgage loan originator". Section 36a-485, as amended by this act.  
"Related person". Section 36a-53.  
"Relocate". Sections 36a-145 and 36a-462a.  
"Residential mortgage loan". Section 36a-485, as amended by this act.

"Residential real estate". Section 36a-485, as amended by this act.  
"Resulting entity". Section 36a-34.  
"Retail buyer". Sections 36a-535 and 36a-770.  
"Retail credit transaction". Section 42-100b.  
"Retail installment contract". Sections 36a-535 and 36a-770.  
"Retail installment sale". Sections 36a-535 and 36a-770.  
"Retail seller". Sections 36a-535 and 36a-770.  
"Reverse annuity mortgage loan". Section 36a-265.  
"Sales finance company". Sections 36a-535 and 36a-770.  
"Savings department". Section 36a-285.  
"Savings deposit". Section 36a-316.  
"Secondary mortgage loan". Section 36a-485, as amended by this act.  
"Security convertible into a voting security". Section 36a-184.  
"Senior management". Section 36a-435b.  
"Settlement agent". Section 36a-494.  
"Share". Section 36a-435b.  
"Simulated check". Section 36a-485, as amended by this act.  
"Single common bond membership". Section 36a-435b.  
"Special mortgage". Section 36a-760c.  
"Social purpose investment". Section 36a-277.  
"Sponsored". Section 36a-485, as amended by this act.  
"Standard mortgage loan". Section 36a-265.  
["System". Section 36a-485.]  
"Table funding agreement". Section 36a-485, as amended by this act.  
"Tax and loan account". Sections 36a-301 and 36a-456b.  
"The Savings Bank Life Insurance Company". Section 36a-285.  
"Time account". Section 36a-316.  
"Travelers check". Section 36a-596.  
"Troubled Connecticut credit union". Section 36a-448a.  
"Unique identifier". Section 36a-485, as amended by this act.  
"Unsecured loan". Section 36a-615.  
"Warehouse agreement". Section 36a-485, as amended by this act.

Sec. 3. Section 36a-485 of the 2012 Supplement to the General Statutes, as amended by section 7 of Public Act 12-96, is repealed and the following substituted in lieu thereof (*Effective from passage*):

As used in this section and sections 36a-486 to 36a-498f, inclusive, 36a-534a to 36a-534c, inclusive, unless the context otherwise requires:

(1) "Advance fee" means any consideration paid or given, directly or indirectly, to a mortgage lender, mortgage correspondent lender or mortgage broker required to be licensed pursuant to sections 36a-485 to 36a-498f, inclusive, and sections 36a-534a and 36a-534b, prior to the closing of a residential mortgage loan to any person, including, but not limited to, loan fees, points, broker's fees or commissions, transaction fees or similar prepaid finance charges;

(2) "Advertise", "advertisement" or "advertising" means the use of any announcement, statement, assertion or representation that is placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or over any radio or television station, by means of the Internet, or by other electronic means of distributing information, by personal contact, or in any other way;

(3) "Branch office" means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a mortgage lender, mortgage correspondent lender or mortgage broker;

(4) "Control person" means an individual that directly or indirectly exercises control over another person. Any person that (A) is a director, general partner or executive officer; (B) directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital, is presumed to be a control person. For purposes of this subdivision, "control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise;

(5) "Depository institution" has the same meaning as provided in Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and includes any Connecticut credit union, federal credit union or out-of-state credit union;

(6) "Dwelling" has the same meaning as provided in Section 103 of the Consumer Credit Protection Act, 15 USC 1602;

(7) "Employee" means an individual (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, a person, and (B) whose compensation is reported or required to be reported on a W-2 form issued by the controlling person. For purposes of the definition of "registered mortgage loan originator", "employee" has the foregoing meaning or such other meaning as the federal banking agencies may issue in connection with such agencies' implementation of such agencies' responsibilities under the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

(8) "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration and the Federal Deposit Insurance Corporation;

(9) "First mortgage loan" means a residential mortgage loan that is secured by a first mortgage;

(10) "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild and includes stepparents, stepchildren, stepsiblings and adoptive relationships;

(11) "Independent contractor" means an individual retained on a basis where the individual is not an employee of any person in connection with the services such individual provides and whose compensation is reported or required to be reported on an Internal Revenue Service Form 1099 issued by the retaining person;

(12) "Individual" means a natural person;

(13) "Loan processor or underwriter" means an individual who performs clerical or support duties. The term "clerical or support duties" includes, subsequent to the receipt of an application, (A) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

(14) "Main office" means the main address designated on the system;

(15) "Mortgage broker" (A) means a person who (i) for compensation or gain or with the expectation of compensation or gain (I) takes a residential mortgage loan application, or (II) offers or negotiates terms of a residential mortgage loan, and (ii) is not the prospective source of the funds for the residential mortgage loan, (B) but does not include (i) an individual who is licensed as a mortgage loan originator acting as a mortgage loan originator on behalf of such mortgage loan originator's sponsoring mortgage lender, mortgage correspondent lender, mortgage broker or exempt registrant, or (ii) an

individual exempt from mortgage loan originator licensure under subdivision (2) of subsection (b) of section 36a-486, as amended by this act, when acting within the scope of such exemption;

(16) "Mortgage correspondent lender" means a person engaged in the business of making residential mortgage loans in such person's own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement or similar agreement;

(17) "Mortgage lender" means a person engaged in the business of making residential mortgage loans in such person's own name utilizing such person's own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement;

(18) "Mortgage loan originator" means an individual who for compensation or gain or with the expectation of compensation or gain, either for such individual or for the person employing or retaining such individual, (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" does not include (i) an individual engaged solely as a loan processor or underwriter; (ii) a person who only performs real estate brokerage activities and is licensed in accordance with chapter 392, unless the person is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (iii) a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Paragraph 53D of 11 USC 101; or (iv) any individual who solely renegotiates terms for existing mortgage loans on behalf of a mortgagee and who does not otherwise act as a mortgage loan originator, unless the United States Department of Housing and Urban Development, the Bureau of Consumer Financial Protection or a court of competent jurisdiction determines that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., requires such individual to be licensed as a mortgage loan originator under state laws implementing said S.A.F.E. Mortgage Licensing Act;

(19) "Office" means a branch office or a main office;

(20) "Person" means a natural person, corporation, company, limited liability company, partnership or association;

(21) "Principal amount of the loan" means the gross amount the borrower is obligated to repay including any prepaid finance charge that is financed, and any other charge that is financed;

(22) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including (A) acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property; (B) bringing together parties interested in the sale, purchase, lease, rental or exchange of real property; (C) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction; (D) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (E) offering to engage in any activity, or act in any capacity, described in this subdivision;

(23) "Registered mortgage loan originator" means any individual who (A) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (B) is registered with and maintains a unique identifier through the system;

(24) "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(25) "Residential real estate" means any real property located in this state, upon which is constructed or intended to be constructed a dwelling;

(26) "Secondary mortgage loan" means a residential mortgage loan that is secured, in whole or in part, by a mortgage, provided such property is subject to one or more prior mortgages;

(27) "Simulated check" means a document that imitates or resembles a check but is not a negotiable instrument;

(28) "Sponsored" means employed or retained as an independent contractor;

[(29) "System" means the Nationwide Mortgage Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators and loan processors or underwriters;]

[(30)] (29) "Table funding agreement" means an agreement wherein a person agrees to fund mortgage loans to be made in another person's name and to purchase such loans after they are made;

[(31)] (30) "Unique identifier" means a number or other identifier assigned by protocols established by the system; and

[(32)] (31) "Warehouse agreement" means an agreement to provide credit to a person to enable the person to have funds to make residential mortgage loans and hold such loans pending sale to other persons.

Sec. 4. Section 36a-21 of the 2012 Supplement to the General Statutes, is repealed and the following substituted in lieu thereof (*Effective from passage*):

(a) Notwithstanding any provision of state law and except as provided in subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery:

(1) Examination and investigation reports and information contained in or derived from such reports, including examination reports prepared by the commissioner or prepared on behalf of or for the use of the commissioner;

(2) Confidential supervisory or investigative information obtained from a state, federal or foreign regulatory or law enforcement agency;



(3) Information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Department of Banking, if such records are protected from disclosure under federal or state law or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (A) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation and all related administrative and legal actions are concluded; (B) personal or financial information, including account or loan information, without the written consent of the person or persons to whom the information pertains; or (C) information that would harm the reputation of any person or affect the safety and soundness of any person whose activities in this state are subject to the supervision of the commissioner, and the disclosure of such information under this subparagraph would not be in the public interest; and

(4) Information obtained, collected or prepared in connection with the organization of an expedited Connecticut bank prior to the issuance of a final certificate of authority to commence the business of a Connecticut bank pursuant to section 36a-70.

(b) The commissioner may, without waiving any privilege, disclose the records described in subsection (a) of this section for any appropriate supervisory, governmental, law enforcement or other public purpose. Any such disclosure shall be made under safeguards designed to prevent further dissemination of such records. In any proceeding before a court, the court may issue a protective order in appropriate circumstances to protect the confidentiality of any such record and order that any such record on file with the court or filed in connection with the court proceeding be sealed and that the public be excluded from any portion of the proceeding at which any such record is disclosed.

(c) No director, officer, employee or agent of any Connecticut bank or Connecticut credit union shall disclose without the prior written consent of the commissioner any information contained in an examination report about such bank or credit union, which information is not otherwise a matter of public record.

(d) (1) [The provisions of subsections (a) and (b) of this section shall not apply to the disclosure of any record provided to or maintained by the commissioner with the system. Except as otherwise provided in Section 1512 of the federal S.A.F.E. Mortgage Licensing Act of 2008, any requirements under federal law or any law of this state, including this section and chapter 14 and any privilege arising under federal law or any law of this state, including the rules of any federal court or court of this state that protect the disclosure of any record provided to or maintained with the system, shall continue to apply to such record after it has been disclosed to the system. Such record may be shared with all state and federal regulatory officials that have oversight authority over the mortgage industry without the loss of privilege or the loss of confidentiality protections provided by federal law or the laws of this state.] In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, except as otherwise provided in this section, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the system, as defined in Section 36a-2, as amended by this act, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to system. Such information and material may be shared with all federal and state regulatory officials with mortgage or other financial services industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law. For purposes of this subsection, the commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or associations representing governmental agencies.

(2) Any information or material that is [protected from disclosure under subdivision (1) of this subsection] subject to privilege or confidentiality under subdivision (1) of this subsection shall not be subject to (A) disclosure under any federal or state law governing disclosure to the public of information held by an officer or agency of the federal government or the respective state; or (B) subpoena, discovery or admission into evidence in any private civil action or administrative process, except a person may, at

such person's discretion, waive in whole or in part a privilege held by the system concerning such information and material.

(3) Any law of this state relating to the disclosure of confidential supervisory information or of any information or material described in subdivision (1) of this subsection that is inconsistent with subdivision (1) shall be superseded by the requirements of this subsection.

(e) The confidentiality provisions of this section shall not apply to records relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, [mortgage loan originators or loan processors or underwriters] persons that are included in the system for access by the public.

[(f) For purposes of this section, "system" has the same meaning as provided in section 36a-485.]

Sec. 5. Subsection (c) of Section 36a-51 of the 2012 Supplement to the General Statutes is repealed and the following substituted in lieu thereof (*Effective from passage*):

(c) Any licensee may surrender any license issued by the commissioner under any provision of the general statutes by surrendering the license to the commissioner in person or by registered or certified mail, provided, in the case of a license issued [pursuant to part I of chapter 668,] through the system, as defined in Section 36a-2, as amended by this act, such surrender shall be initiated by filing a request to surrender on the system. [as defined in section 36a-485, in accordance with section 36a-490.] No surrender on the system shall be effective until the request for surrender is accepted by the commissioner. Surrender of a license shall not affect the licensee's civil or criminal liability, or affect the commissioner's ability to impose an administrative penalty on the licensee pursuant to section 36a-50 for acts committed prior to the surrender. If, prior to receiving the license, or, in the case of a license issued [pursuant to part I of chapter 668,] through the system, prior to the filing of a request to surrender a license, [under section 36a-490,] the commissioner has instituted a proceeding to suspend, revoke or refuse to renew such license, such surrender or request to surrender will not become effective except at such time and under such conditions as the commissioner by order determines. If no proceeding is pending or has been instituted by the commissioner at the time of surrender, or, in the case of a license

issued [pursuant to part I of chapter 668,] through the system, at the time a request to surrender is filed, the commissioner may still institute a proceeding to suspend, revoke or refuse to renew a license under subsection (a) of this section up to the date one year after the date of receipt of the license by the commissioner, or, in the case of a license issued [pursuant to part I of chapter 668,] through the system, up to the date one year after the date of the acceptance by the commissioner of a request to surrender a license. [under section 36a-490.]

Sec. 6. (NEW) (*Effective from passage*): (a) In addition to any other duties imposed upon the Banking Commissioner by law, the commissioner is authorized to require persons engaged in a financial services industry subject to the commissioner's jurisdiction to be licensed or registered through the system, as defined in section 36a-2 of the general statutes, as amended by this act.

(b) In the event the commissioner elects to require system-based licensure for persons engaged in financial services industries subject to the commissioner's jurisdiction, the commissioner shall require all initial or renewal applications for such licenses or registrations in this state to be made and processed through the system on and in such form as the commissioner may prescribe, and the system shall be authorized to receive and maintain records related to such licenses or registrations to the same extent allowed or required to be maintained by the commissioner. For this purpose, the commissioner may establish requirements by order as necessary for participation in the system, including, but not limited to:

(1) Background checks, including in the case of any form of business organization, checks on the individuals comprising the ownership or management of such organization, for criminal history through (A) fingerprint submission to the Federal Bureau of Investigation or other state, national or international criminal databases, (B) civil, criminal or administrative records from any governmental jurisdiction, (C) credit history, including an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, or (D) any other information as deemed necessary by the system; (2) the payment of fees to apply for or renew licenses or registrations through the system; (3) the setting or resetting of license expiration, renewal or transition dates or reporting dates or forms; and (4) the requirements for amending or surrendering a license or any other

such activities as the commissioner deems necessary for participation in the system. Such information may thereafter be used by the commissioner to determine the applicant's eligibility for licensing under applicable law and any order issued by the commissioner hereunder. For the purpose of participating in the system, the commissioner may by order waive or modify, in whole or in part, any applicable requirement of title 36a of the general statutes and establish new requirements as reasonably necessary to participate in the system. For the purposes of implementing an orderly and efficient licensing process, the commissioner may adopt licensing regulations, in accordance with the provisions of chapter 54 of the general statutes, and interim procedures for licensing and acceptance of applications.

(c) In the event the commissioner elects to require system-based licensure for persons engaged in financial services industries subject to the commissioner's jurisdiction, the commissioner may report regularly to the system violations of and enforcement actions under applicable law and other relevant information. The commissioner may establish relationships or enter into contracts with the system or other entities designated by the system to collect and maintain records and process transaction fees or other fees related to licensees or other persons required or permitted to be licensed or registered on the system.

(d) To reduce the points of contact that the commissioner or the Federal Bureau of Investigation may have to maintain for purposes of title 36a of the general statutes, the commissioner may use the system as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency and any other source as directed by the commissioner.

(e) Persons required or permitted to be licensed or registered on the system may challenge information entered into the system by the commissioner. Such challenge shall (1) be made in writing to the commissioner, (2) set forth the specific information being challenged, and (3) include any evidence which supports the challenge. Challenges shall be limited to the factual accuracy of information within the system. If the commissioner determines that the information entered into the system is factually inaccurate, the commissioner shall take prompt action to correct such information. Nothing in this

subdivision shall be construed to permit a challenge under this section to the merits or factual basis of any administrative action taken by the commissioner pursuant to title 36a of the general statutes.

(f) Any person making any filing or submission of any information on the system shall do so in accordance with the procedures and requirements of the system, shall pay applicable fees or charges to the system. Each person required to obtain registration or licensure through the system shall timely submit to the system accurate reports that shall be in such form and contain such information as the system may require. Failure to timely submit to the system accurate reports shall constitute a violation of this provision.

(g) All fees paid for any initial application for a license or registration or for a renewal application for a license or registration, including but not limited to fees paid in connection with an application that is denied or withdrawn prior to the issuance of the license or registration, shall be nonrefundable. No fee shall be prorated if the license or registration is surrendered, revoked or suspended prior to the expiration of the period for which it was approved.

(h) The commissioner may automatically suspend a license or registration of a person on the system if such person receives a deficiency on the system indicating that a required payment was Returned-ACH or returned pursuant to such other term as may be utilized by the system to indicate that the payment was not accepted. After a license or registration has been automatically suspended pursuant to this subdivision, the commissioner shall give such licensee or registrant notice of the automatic suspension, pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such action in accordance with section 36a-51 of the general statutes, and require such licensee to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this subdivision.

(i) The commissioner may deem an application for a license or registration on the system abandoned if the applicant fails to respond to any request for required information. The commissioner shall notify the applicant on the system that if such information is not submitted not later than sixty days from the date of such request the application shall be deemed abandoned. An application filing fee paid

prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license or registration.

(j) The commissioner may issue a temporary order to cease business under a license or registration if the commissioner determines that such license or registration was issued erroneously. The commissioner shall give the licensee an opportunity for a hearing on such action in accordance with section 36a-52 of the general statutes. Such temporary order shall become effective upon receipt by the licensee and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

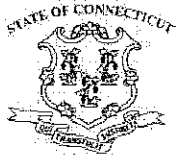
Sec. 7. Subdivision (2) of subsection (b) of Section 36a-486 of the 2012 Supplement to the General Statutes, as amended by section 8 of public act 12-96, is repealed and the following substituted in lieu thereof (*Effective October 1, 2013*):

(2) The following are exempt from this section: (A) A registered mortgage loan originator or an employee of an institution or subsidiary described in subdivision (23) of section 36a-485, as amended by this act, who is not required to be registered under Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., when acting for such institution or subsidiary; (B) an individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of such individual; (C) an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual's residence, unless the context demonstrates that such individual engaged in such activities with a degree of habitualness or repetition; (D) a Connecticut licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (E) an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan as an employee of a federal, state or local government agency or

housing finance agency exempt from licensure pursuant to section 36a-487 and who does so only pursuant to such individual's official duties as an employee of such agency; (F) an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan as an employee of an organization that has obtained bona fide nonprofit status from the commissioner and is exempt from licensure pursuant to section 36a-487 and who does so only pursuant to such individual's official duties as an employee of such organization; and (G) an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that is not the individual's residence but is owned by such individual, unless the context demonstrates that such individual engaged in such activities with a degree of habitualness or repetition.

*Statement of Purpose:* To authorize the Banking Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the Commissioner.





## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

### AN ACT CONCERNING BANKS

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:** Department of Banking

**Liaison:** James Heckman

**Phone:** (860) 240-8105

**E-mail:** James.heckman@ct.gov

**Lead agency division requesting this proposal:** Financial Institutions Division

**Agency Analyst/Drafter of Proposal:** Nirja Savill

**Title of Proposal:** An Act Concerning Banks

#### Statutory Reference:

Sections 36a-21(c) and 36a-127, and Sections 36a-145(o) and 36a-262, as amended by P.A. 12-96.

#### Proposal Summary

This proposal

1. Amends Section 36a-21(c) to expand the prohibition against officers, directors and employees of Connecticut banks and Connecticut credit unions disclosing information in examination reports without the approval of the Commissioner to include entities licensed to act as trustee and to entities licensed as business and industrial development corporations;
2. Makes a technical amendment to Section 36a-127;
3. Amends Sections 36a-145(o) to authorize Connecticut banks to establish loan production offices outside Connecticut;
4. Makes a technical amendment to Section 36a-262(a);

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

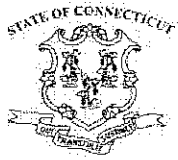
### • Reason for Proposal

*Please consider the following, if applicable:*

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?
- (3) Have certain constituencies called for this action?
- (4) What would happen if this was not enacted in law this session?

The amendment to Section 36a-21(c) is necessary to prevent the disclosure of financial information that is contained in the examination reports.

The amendment to Section 36a-145 would allow Connecticut banks to open loan production offices outside Connecticut. Under current law, Connecticut banks may establish only a branch or limited branch outside Connecticut.



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- **Origin of Proposal**      ☒ **New Proposal**      ☐ **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal    ☐ YES    ☒ NO    ☐ Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?    ☐ YES    ☒ NO

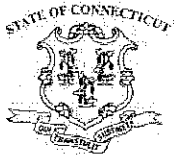
- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

#### State

Without the amendment to Section 36a-145(o), a Connecticut bank's application for an out-of-state loan production office would be processed as a limited branch application. While the application fee for a loan production office is \$500 less than that for a limited branch, the reduced fee is appropriate in light of the reduced time required to process the loan production office filing. The fiscal impact of the amendment would be minimal since the department has received only 2 applications since 2010 for out-of-state limited branches that are loan production offices.

#### Federal



Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

## An Act Concerning Banks

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 36a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) No director, officer, employee or agent of any Connecticut bank, [or] Connecticut credit union or licensee under sections 36a-380 or 36a-628 shall disclose without the prior written consent of the commissioner any information contained in an examination report about such bank, [or] credit union[,]  
or licensee, which information is not otherwise a matter of public record.

Sec. 2. Section 36a-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from October 1, 2013*):

A Connecticut bank may merge with one or more of its affiliates that are not banks or out-of-state banks, provided the resulting institution is a Connecticut bank. Such merger shall be effected in accordance with the provisions of section 36a-125 as if such affiliate were a constituent bank, except,



with respect to any provision therein governing corporate procedure, including the rights of dissenting members or shareholders who assert existing appraisal rights, such affiliate shall comply with the laws of the state or other jurisdiction under which such affiliate is organized. Any such affiliate shall also comply with other applicable laws of the state or other jurisdiction under which such affiliate is organized concerning such mergers.

Sec. 3. Subsection (o) of section 36a-145 of the general statutes, as amended by Public Act 12-96, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

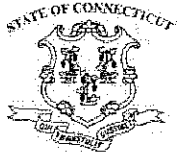
(o) With the approval of the commissioner, a Connecticut bank may establish a loan production office [in] inside or outside of this state.

Sec. 4. Subsection (a) of section 36a-262 of the general statutes, as amended by Public Act 12-96, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as otherwise provided in this section, the total direct or indirect liabilities of any one obligor that are not fully secured, however incurred, to any Connecticut bank, exclusive of such bank's investment in the investment securities of such obligor, shall not exceed at the time incurred fifteen per cent of the equity capital and reserves for loan and lease losses of such bank. The total direct or indirect liabilities of any one obligor that are fully secured, however incurred, to any Connecticut bank, exclusive of such bank's investment in the investment securities of such obligor, shall not exceed at the time incurred ten per cent of the equity capital and reserves for loan and lease losses of such bank, provided this limitation shall be separate from and in addition to the limitation on liabilities that are not fully secured. Notwithstanding any provision of this subsection, the limitation on the liabilities of any one obligor shall take into account the credit exposure to such obligor arising from a derivative transaction.



The commissioner shall have the authority to establish the method for determining the credit exposure and the extent to which the credit exposure shall be taken into account. As used in this subsection, "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event [leading] relating to, one or more commodities, securities, currencies, interest or other rates, indices or other assets. The commissioner may adopt regulations in accordance with the provisions of chapter 54 establishing the method for determining credit exposure to derivative transactions and the extent to which the credit exposure shall be taken into account. For purposes of this section, a liability shall be considered to be fully secured if it is secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the liability. For purposes of determining the limitations of this section, in computing the liabilities of an obligor, a liability is incurred at the time of the closing of the transaction, unless such closing is preceded by a legally binding written commitment to enter into the transaction, in which case such liability is incurred at the time of commitment and is net of any liabilities of the obligor to such bank that will be paid with the proceeds of the commitment at the time of closing. The limitations provided for in this subsection may be exceeded for a period of time not to exceed six hours if at the closing of any transaction at which such obligor incurs such liabilities to a Connecticut bank in excess of such limitations, such bank immediately assigns or participates out to one or more other persons an amount that constitutes not less than the excess over the applicable limitation. Obligations as endorser or guarantor of negotiable or nonnegotiable installment consumer paper which carry an agreement to repurchase on default, unless the bank's sole recourse is to an agreed reserve held by it, in which case the liability shall be excluded, a full recourse endorsement or an unconditional guarantee by the person, partnership, association or corporation transferring the same, shall be subject



under this section to a limitation of fifteen per cent of the bank's equity capital and reserves for loan and lease losses in addition to the applicable limitations of this section with respect to the makers of such obligations; provided, upon certification by an officer of the bank designated for that purpose by the governing board that the responsibility of each maker of such obligations has been evaluated and the bank is relying primarily upon each such maker for the payment of such obligations, the limitations of this section as to the obligations of each maker shall be the sole applicable loan limitation; and provided such certification shall be in writing and shall be retained as part of the records of such bank.

## Agency Legislative Proposal - 2013 Session

**Document Name:** 092812\_DOB\_MoneyTr\_MtgServicers\_CCAG.doc

AAC Money Transmission, Mortgage Servicers and Consumer Collection Agencies

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Department of Banking

Liaison: James Heckman

Phone: (860) 240-8105

E-mail: [james.heckman@ct.gov](mailto:james.heckman@ct.gov)

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Serrano and Doniel Kitt

### Title of Proposal

An Act Concerning Money Transmission, Mortgage Servicers and Consumer Collection Agencies

**Statutory Reference** 36a-595, 36a-596, 36a-597, 36a-598, 36a-599, 36a-600, 36a-601, 36a-602, 36a-603, 36a-604, 36a-605, 36a-606, 36a-606a, 36a-607, 36a-608, 36a-609, 36a-610, NEW, 36a-715, 36a-716, 36a-717, 36a-718, 36a-1, 36a-3, 36a-65(c)(6), 36a-412(a)(4), 49-2a, 49-2c, 36a-800, 36a-801, 36a-805, 36a-808

### Proposal Summary

Section 1 amends Section 36a-595 to include new sections 18 and 19 in the money transmission act.

Section 2 amends Section 36a-596 to add, revise and delete definitions applicable to the money transmission act.

Section 3 amends Section 36a-597 to clarify the prohibition on money transmission services being provided by persons that are not licensed, authorized delegates or exempt. It also adds a prohibition against selling stored value and advertising or soliciting money transmission services.

Section 4 amends Section 36a-598 to require additional information by an applicant seeking a money transmitter license and clarifies that any change in application information must be provided to the commissioner no later than fifteen days after knowledge of such change. It also requires that a licensee notify the commissioner concerning indictments of certain persons for felonies or misdemeanors involving the money transmission business.

Section 5 amends Section 36a-599 to specify that licensing fees are nonrefundable and requirements upon surrender of a license.

Section 6 amends Section 36a-600 to conform the statutory language concerning the issuance of money transmitter licenses with current procedure. It also allows the commissioner to deny a money transmitter

application if certain persons are listed on the nationals and blocked persons list.

Section 7 amends Section 36a-601 to require the commissioner to suspend a renewal license if an investigation or license fee made by ACH is returned.

Section 8 amends Section 36a-602 to revise and make explicit certain requirements concerning a licensee's bond.

Section 9 amends Section 36a-603 to require that a licensee maintain permissible investments valued in the amount of all outstanding money transmissions, rather than just outstanding payment instruments and stored value obligations. It also adds requirements that current receivables only account for 30% of the value of permissible investments and no person account for more than 10% of such receivables.

Section 10 amends Section 36a-604 to require that the net worth requirements of a licensee be based on tangible net worth.

Section 11 amends Section 36a-605 to make certain conforming changes reflecting the new definitions and new provisions of the act.

Section 12 amends Section 36a-606 to clarify the type of financial statements required to be filed annually by licensees with the commissioner.

Section 13 amends Section 36a-606a to clarify that proof of compliance with the Currency and Foreign Transactions Reporting Act ("CFTRA") may be required by the commissioner and that a violation of CFTRA may be deemed a violation of the act.

Section 14 amends Section 36a-607 to require that a licensee notify the commissioner of any authorized delegate that acts on its behalf and makes other conforming changes to reflect the revised definitions.

Section 15 amends Section 36a-608 to reflect the revised definitions in the act and allow the commissioner to order a licensee terminate its agency relationship with an authorized delegate if such authorized delegate is convicted of an act involving fraud or dishonesty.

Section 16 amends Section 36a-609 to make exemptions for Connecticut banks and credit unions consistent with other financial institution exemptions and to exempt any contractor that provides money transmission services, sells payment instruments or stored value on behalf of the United States Postal Service.

Section 17 amends Section 36a-610 to reflect the new sections 18 and 19 in the act.

Section 18 adds a new section specifying record requirements of money transmitter licensees.

Section 19 adds a new section requiring that licensees notify the commissioner not later than fifteen days after any change in the list of authorized delegates or locations in this state where the licensee or authorized delegate engages in the business of money transmission, sells payment instruments or stored value.

Section 20 amends Section 36a-715 to add, revise and delete certain definitions applicable to the mortgage servicer regulatory scheme.

Sections 21 and 22 amend Sections 36a-716 and 36a-717, respectively, by replacing the term "mortgage



servicing company” with “mortgage servicer”, in accordance with the amended definitions.

Section 23 amends Section 36a-718 to add a new requirement that a person acting as a mortgage servicer must obtain a license from the Banking Commissioner for its main office and each branch office from which it conducts business unless exempt from licensing requirements, effective January 1, 2014. The amendment also deletes the current text of Section 36a-718 concerning the commissioner’s enforcement authority over mortgage servicers, as the commissioner’s enforcement authority will now be incorporated in the new section 16.

Section 24 adds a new section that specifies the application requirements and prerequisites to mortgage servicer licensure by the commissioner.

Section 25 adds a new section that specifies various requirements concerning a mortgage servicer license, including transferability, name requirements and the process for surrendering a license. It also specifies the timeframe that certain events must be noticed to the commissioner by a mortgage servicer licensee.

Section 26 adds a new section specifying the term of a mortgage servicer license and fees required.

Section 27 adds a new section specifying the bond requirement of a mortgage servicer licensee.

Section 28 adds a new section specifying the record requirements of a mortgage servicer licensee.

Section 29 adds a new section specifying disclosure requirements of mortgage servicers upon acceptance of assignment of mortgage servicing rights.

Section 30 adds a new section that specifies the standards of care that a mortgage servicer must adhere to.

Section 31 adds a new section that makes it a violation of the act if a mortgage servicer fails to comply with federal laws and regulations governing mortgage servicing.

Section 32 adds a new section that creates requirements and limitations on the fees imposed on a mortgagor by a mortgage servicer, including attorney fees and late payment charges.

Section 33 adds a new section specifying certain prohibited practices by mortgage servicers and states that a violation of the section is deemed an unfair or deceptive trade practice and enforceable pursuant to CUTPA.

Section 34 adds a new section that provides the commissioner with authority to conduct examinations and investigations in connection with mortgage servicer activity.

Section 35 adds a new section that provides the commissioner with authority to take enforcement action against mortgage servicer licensees and persons who violate the requirements of the mortgage servicing act.

Section 36 adds a new section that provides the commissioner with authority to adopt regulations under the mortgage servicing act.

Section 37 adds a new section that specifies that the requirements of the act apply to persons who act as mortgage servicers on or after January 1, 2014.

Section 38 amends Section 36a-1 by replacing the term “mortgage servicing company” with “mortgage

servicer", in accordance with the amended definitions.

Section 39 amends Section 36a-3 to reflect the amendments made to the definitions in section 36a-715.

Section 40 amends Section 36a-65(c)(6) to require a mortgage servicer licensee pay the cost of an examination.

Section 41 amends Section 36a-412(a)(4) to include the new statutory provisions applicable to mortgage servicers.

Sections 42 and 43 amend Sections 49-2a and 49-2c by replacing the term "mortgage servicing company" with "mortgage servicer", in accordance with the amended definitions.

Section 44 amends Section 36a-800 to add definitions for the terms "branch office" and "main office". It also amends the definition of "consumer collection agency" to include persons who buy delinquent debts and then engage in the business of collecting on such debts, commonly known as debt buyers.

Section 45 amends Section 36a-801 to prohibit any person from acting as a debt collection agency in this state unless such person has first obtained a license for its main office and each branch office where such business is conducted; to require an applicant to provide sufficient information pertaining to the history of criminal convictions of the applicant and certain specified principals of the applicant, as the Commissioner deems necessary, to make the findings under the section; and to require that, prior to issuing a consumer collection agency license, the Commissioner must find that the financial responsibility, character, reputation, integrity and general fitness of the applicant and certain specified principals of the applicant are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of the consumer collection agency provisions and that, among other things, the applicant is solvent.

Section 46 adds a new section which prescribes how each consumer collection agency must maintain its consumer debtor and creditor records. This proposal also adds a new requirement that each consumer collection agency deposit the funds that it collects on behalf of others in one or more trust accounts in a financial institution located in Connecticut and limits the purposes for which such funds may be withdrawn from such accounts.

Section 47 adds a new section that will require each consumer collection agency to comply with the applicable provisions of the federal Fair Debt Collection Practices Act and provide that a violation of such provisions would be deemed a violation of under Connecticut law, which would allow the Banking Commissioner to take enforcement action.

Section 48 amends Section 36a-805 to remove the restriction on consumer collection agencies from buying claims, in contemplation that such debt buyers would become regulated as a result of the changes made to the definition of "consumer collection agency". This proposal would require each consumer collection agency to obtain a copy of any contract between a consumer debtor and creditor to enable the consumer collection agency to determine whether the consumer debtor is legally liable for collection fees that are added to the debt being collected and would make it a violation for a consumer collection agency to fail to inform a consumer debtor that the debt may be subject to a statute of limitations.

Section 49 amends Section 36a-808 to authorize the Commissioner to bring cease and desist actions against violators of the consumer collection agency statutes and regulations in addition to the authority the Commissioner already has to seek civil monetary penalties.

*Please attach a copy of fully drafted bill (required for review)*

DRAFT

## PROPOSAL BACKGROUND

- Reason for Proposal

This proposal enhances regulatory requirements of money transmission licensees, including requiring that licensees keep permissible investments in an amount sufficient to cover all outstanding money transmissions and promptly update the commissioner upon changing locations or authorized delegates. This proposal also makes other conforming changes consistent with industry standards to ease administration and enforcement of the act by the commissioner.

To better protect residents who have residential mortgage loans secured by property in Connecticut, this proposal creates a new regulatory scheme to be administered by the Banking Commissioner governing persons that act as mortgage servicers effective January 1, 2014. The scheme requires that certain mortgage servicers be licensed and all mortgage servicers comply with certain standards of conduct and regulatory and disclosure requirements, and provides the commissioner with authority to take enforcement action against persons and licensees who violate the provisions of the act.

This proposal brings debt buyers within the jurisdiction of the consumer collection agency statutes, enhances certain application requirements, recordkeeping and funds management by consumer collection agencies and requires consumer collection agencies to take certain steps to ascertain a consumer debtor's legal obligation to pay collection fees and to advise consumer debtors that the debt may be uncollectible due to a statute of limitations.

- Origin of Proposal ☒ New Proposal ☐ Resubmission

- Agencies Affected

Agency Name: Office of the Attorney General  
Agency Contact (name, title, phone): Matthew Budzik, Assistant Attorney General (860) 240-8270  
Date Contacted: September 24, 2012

Approve of Proposal ☐ YES ☐ NO ☒ Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation? ☐ YES ☐ NO

- Fiscal Impact (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

Minimal revenue gain of approximately \$50,000 as a result of an estimated 50 new mortgage servicer licensees at an annual fee of \$1,000.

Minimal revenue gain of approximately \$90,000 as a result of an estimated 100 new consumer collection agency licensees at a biannual fee of \$900.

No additional resources or staff is necessary to administer the new licensing requirements.

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

None

**AN ACT CONCERNING MONEY TRANSMISSION, MORTGAGE SERVICERS  
AND CONSUMER COLLECTION AGENCIES**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-595 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, shall be known and may be cited as the "Money Transmission Act".

Sec. 2. Section 36a-596 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

As used in sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act:

(1) "Authorized delegate" means a person that a licensee designates to provide money transmission services, sell payment instruments or sell stored value on behalf of the licensee.

[(1)] (2) "Electronic payment instrument" means a card or other tangible object for the transmission of money or monetary value or payment of money which contains a microprocessor chip, magnetic stripe, or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in the issuer's goods or services.

[(2)] (3) "Holder" means a person, other than a purchaser, who is either in possession of a Connecticut payment instrument and is the named payee thereon or in possession of a Connecticut payment instrument issued or endorsed to such person or bearer or in blank. "Holder" does not include any person who is in possession of a lost, stolen or forged Connecticut payment instrument.

[(3)] (4) "Licensee" means any person licensed or required to be licensed pursuant to sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act.

[(4)] (4) "Material litigation" means any litigation that, according to generally accepted accounting principles, is deemed significant to a person's financial health and would be required to be referenced in a person's annual audited financial statements, report to shareholders or similar documents.]

(5) "Monetary value" means a medium of exchange, whether or not redeemable in money.

[(6)] (6) "Money order" means any check, draft, money order or other payment instrument. "Money order" does not include a travelers check or electronic payment instrument.]

[(7)] (6) "Money transmission" means engaging in the business of issuing payment instruments or stored value, receiving money or monetary value for current or future transmission or the business of transmitting money or monetary value within the United States or to locations outside the United States by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer, [or issuing stored value.]

[(8)] (8) "Net worth" means the excess of assets over liabilities as determined by generally accepted accounting principles.]

[(9)] (7) "Outstanding" means, in the case of a [money order, travelers check, electronic] payment instrument or stored value, that: (A) It is sold or issued in the United States; (B) a report of it has been received by a licensee from its agents; and (C) it has not yet been paid by the issuer, [.] and for all other money transmissions, "outstanding" means the value reported to the licensee for which the money transmitter has received money or its equivalent value from the customer for transmission, but has not yet completed the money transmission by delivering the money or monetary value to the person designated by the customer.

[(10)] (8) "Payment instrument" means a check, draft, money order, travelers check or electronic payment instrument that evidences either an obligation for the transmission of money or monetary value or payment of money, or the purchase or the deposit of funds for the purchase of such check, draft, money order, travelers check or electronic payment instrument. A payment instrument is a "Connecticut payment instrument" if it is sold in this state.

[(11)] (9) "Permissible investment" means: (A) Cash in United States currency; (B) time deposits, as defined in section 36a-2, or other debt instruments of a bank; (C) bills of exchange or bankers acceptances which are eligible for purchase by member banks of the Federal Reserve System; (D) commercial paper of prime quality; (E) interest-bearing bills, notes, bonds, debentures or other obligations issued or guaranteed by: (i) The United States or any of its agencies or instrumentalities, or (ii) any state, or any agency, instrumentality, political subdivision, school district or legally constituted authority of any state if such investment is of prime quality; (F) interest-bearing bills or notes, or bonds, debentures or preferred stocks, traded on any national securities exchange or on a national over-the-counter market, if such debt or equity investments are of prime quality; (G) receivables due from [selling agents] authorized delegates consisting of the proceeds of the sale of payment instruments which are not past due or doubtful of collection; (H) gold; and (I) any other investments approved by the commissioner. Notwithstanding the provisions of this subdivision, if the commissioner at any time finds that an investment of a licensee is unsatisfactory for investment purposes, the investment shall not qualify as a permissible investment.

[(12)] (10) "Prime quality" of an investment means that it is within the top four rating categories in any rating service recognized by the commissioner unless the commissioner determines for any licensee that only those investments in the top three rating categories qualify as "prime quality".

[(13)] (11) "Purchaser" means a person who buys or has bought a Connecticut payment instrument or who has given money or monetary value for current or future transmission.

[(14)] (12) "Stored value" means monetary value that is evidenced by an electronic record. For the purposes of this subdivision, "electronic record" means information that is stored in an electronic medium and is retrievable in perceivable form.

[(15)] (13) "Travelers check" means a payment instrument for the payment of money that contains a provision for a specimen signature of the purchaser to be completed at the time of a purchase of the instrument and a provision for a countersignature of the purchaser to be completed at the time of negotiation.



[(16) "Unsafe or unsound practice" means a practice or conduct by a licensee or an agent of such licensee that is likely to result in a material loss, insolvency or dissipation of the licensee's assets or otherwise materially prejudice the interests of purchasers.]

Sec. 3. Section 36a-597 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No person shall engage in the business of [issuing Connecticut payment instruments, or engage in the business of] money transmission in this state, or advertise or solicit such services, without a license issued by the commissioner as provided in section 36a-600, as amended by this act [. No person shall engage in such business or in the business of selling Connecticut payment instruments as an agent,] except as an [agent] authorized delegate of a person that has been issued a license by the commissioner [as provided in section 36a-600 or an entity or a person exempt under section 36a-609] and in accordance with section 36a-607, as amended by this act. No person shall engage in the business of selling payment instruments or stored value in this state without a license issued by the commissioner as provided in section 36a-600, as amended by this act, except as an authorized delegate of a person that has been issued a license by the commissioner and in accordance with section 36a-607, as amended by this act. The licensee and the [agent] authorized delegate shall promptly notify the commissioner, in writing, of the termination of the contract between such licensee and [agent] authorized delegate.

(b) Any person who knowingly engages in the business of [issuing Connecticut payment instruments, or who knowingly engages in the business of] money transmission in this state, without obtaining a license, as provided in section 36a-600, as amended by this act, shall be guilty of a class D felony. Each transaction in violation of the provisions of this subsection shall constitute a separate offense.

Sec. 4. Section 36a-598 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Each application for an [original] initial or renewal license required under sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, shall be made in writing

and under oath to the commissioner in such form as the commissioner may prescribe. The application shall include:

- (1) The exact name of the applicant and, if incorporated, the date of incorporation and the state where incorporated;
- (2) The complete address of the principal office from which the business is to be conducted and of the office where the books and records of the applicant are to be maintained;
- (3) The complete name and address of each of the applicant's [branches, subsidiaries, affiliates and agents,] locations and authorized delegates, if any, [engaging in this state in the business of selling or issuing Connecticut payment instruments, or engaging] through which the applicant intends to engage in the business of money transmission, sell payment instruments or sell stored value;
- (4) The name, title, address and telephone number of the person to whom notice of the commissioner's approval or disapproval of the application shall be sent and to whom any inquiries by the commissioner concerning the application shall be directed;
- (5) The name and residence address of the individual, if the applicant is an individual; the partners, if the applicant is a partnership; the directors, trustees, principal officers, and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or the members, if the applicant is a limited liability company;
- (6) [The most recently] (A) A copy of the applicant's audited financial statements for the most recent fiscal year; (B) if the applicant is a wholly-owned subsidiary of another corporation, (i) the most recent audited consolidated annual financial statements of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and (ii) the most recent audited unconsolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year; [, prepared by an independent certified public accountant acceptable to the commissioner;] and (C) if the applicant is publicly traded, a copy of the most recent 10-K report filed with the Securities and Exchange Commission, or if the applicant is a wholly-owned subsidiary of a publicly traded company, a copy of the parent company's most recent 10-K report filed with the

Securities and Exchange Corporation. In the event that the applicant or parent company of a wholly-owned subsidiary applicant is publicly traded on a foreign exchange, a copy of similar documentation filed with the applicable securities regulator;

(7) A list of the applicant's permissible investments, the book and market values of such investments, and the dollar amount of the applicant's aggregate outstanding payment instruments (A) as of the date of the financial statement filed in accordance with subdivision (6) of this subsection; and (B) as of a date no earlier than thirty business days prior to the filing of the application;

(8) The history of material litigation for the five-year period prior to the date of the application of the individual, if the applicant is an individual; the partners, if the applicant is a partnership; the directors, trustees, principal officers and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or the members, if the applicant is a limited liability company, and sufficient information pertaining to the history of material litigation, in a form acceptable to the commissioner, on such individual or the partners, directors, trustees, principal officers, members and any shareholder owning ten per cent or more of each class of the applicant's securities. [;] For purposes of this section, "material litigation" means any litigation that, according to generally accepted accounting principles is deemed significant to a person's financial health and would be required to be referenced in a person's annual audited financial statements, report to shareholders or similar documents;

(9) (A) The history of criminal convictions of the individual, if the applicant is an individual; the partners, if the applicant is a partnership; the directors, trustees, principal officers and any shareholder owning ten per cent or more of each class of its securities if the applicant is a corporation or association; or the members, if the applicant is a limited liability company, and (B) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such individual or the partners, directors, trustees, principal officers, members and any shareholder owning ten per cent or more of each class of the applicant's securities;

(10) (A) The surety bond required by subsection (a) of section 36a-602, as amended by this act, if applicable;

(B) A list of the investments maintained in accordance with subsection (c) of section 36a-602, as amended by this act, if applicable, and the book and market values of any such investments (i) as of the date of the financial statement filed in accordance with subdivision (6) of this subsection; and (ii) as of a date no earlier than thirty business days prior to the filing of the application;

(11) A statement [of whether the applicant will engage in the business of issuing money orders, travelers checks or electronic payment instruments or engage in the business of money transmission in this state; and] describing the type of money transmission business that will be conducted by the applicant;

(12) The name and address of any financial institutions used by the applicant for its money transmission business in this state;

(13) For each authorized delegate, a copy of the contract evidencing the proposed arrangement between the licensee and the authorized delegate; and

~~[(12)]~~ (14) Any other information the commissioner may require.

(b) The commissioner, in accordance with section 29-17a, may conduct a state and national criminal history records check of the individual applicant and of each partner, director, trustee, principal officer, member and shareholder owning ten per cent or more of each class of the securities of the applicant. The commissioner may deem an application for a license to engage in the business of [issuing Connecticut payment instruments or engage in the business of] money transmission abandoned if the applicant fails to respond to any request for information required under sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, or any regulations adopted pursuant to said sections. The commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information not later than sixty days after such request, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act.

(c) An applicant or licensee shall [promptly] notify the commissioner, in writing, of any change in the information provided in the application for license or most recent renewal of such license no later than fifteen days after the applicant or licensee knows or has reason to know of such change.

(d) A licensee shall not change the name specified on its license unless, prior to such change in name, the licensee files an application with the commissioner accompanied by the name change fee specified in subsection (a) of section 36a-599, as amended by this act, and receives the approval of the commissioner.

(e) A licensee shall provide a written notice to the commissioner no later than one business day after the licensee has reason to know of the occurrence of any of the following events:

(1) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization;

(2) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

(3) The commencement of a proceeding to revoke or suspend its license to engage in money transmission in another state or a foreign country, or other formal or informal regulatory action by any governmental agency against the licensee and the reasons therefor;

(4) The commencement of any action by the Attorney General or the attorney general of any other state and the reasons therefor;

(5) The cancellation or other impairment of the licensee's bond or other security, including notice of claims filed against the licensee's bond or other security;

(6) A conviction or indictment of the licensee or of a partner, director, trustee, principal officer, member or shareholder owning ten per cent or more of each class of the licensee's securities for a misdemeanor involving the money transmission business, [or the business of issuing Connecticut payment instruments,] or a felony; or

(7) A conviction or indictment of its [agent] authorized delegate for a felony or misdemeanor involving the money transmission business.

Sec. 5. Section 36a-599 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Each application for an [original] initial license shall be accompanied by a nonrefundable investigation fee of six hundred twenty-five dollars and a nonrefundable license fee of two thousand two hundred fifty dollars, except that if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay a nonrefundable investigation fee of six hundred twenty-five dollars and a license fee of one thousand two hundred fifty dollars. Each application for a renewal license shall be accompanied by a nonrefundable license fee of two thousand two hundred fifty dollars. [, or in the case of a license that expires on June 30, 2007, a license fee of two thousand two hundred fifty dollars. The license fee shall be refunded if the application for an original license is denied, the commissioner refuses to issue a renewal license or an application for a license or renewal license is withdrawn prior to issuance of a license or renewal license by the commissioner.] Each licensee shall pay to the commissioner a nonrefundable name change fee of two hundred dollars for each application to change a name. No licensee shall use any name other than the name specified on the license issued by the commissioner.

(b) A license issued pursuant to sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to said sections. [~~§~~ provided any license that is renewed effective July 1, 2007, shall expire on September 30, 2009.] Not later than fifteen days after a licensee ceases to engage in this state [in the business of issuing Connecticut payment instruments or ceases to engage] in the business of money transmission for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy or voluntary dissolution, such licensee shall provide written notice of surrender and surrender to the commissioner [in person or by registered or certified mail] its license for each

location in which such licensee has ceased to engage in such business. The written notice of surrender must identify the location where the records of the licensee will be stored and the name, address and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative actions undertaken by the commissioner to revoke or suspend a license, to assess a civil penalty, to order restitution or to exercise any other authority provided to the commissioner under this act.

Sec. 6. Section 36a-600 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Upon the filing of an application for an [original] initial license, and the payment of the fees for investigation and license, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The commissioner [shall approve conditionally any application,] may issue a license if the commissioner finds that:

(1) The applicant's financial condition is sound;

(2) The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, and in a manner commanding the confidence and trust of the community;

(3) (A) If the applicant is an individual, such individual is in all respects properly qualified and of good character, (B) if the applicant is a partnership, each partner is in all respects properly qualified and of good character, (C) if the applicant is a corporation or association, each president, chairperson of the executive committee, senior officer responsible for the corporation's business, chief financial officer or any other person who performs similar functions as determined by the commissioner, director, trustee and each shareholder owning ten per cent or more of each class of the securities of such corporation is in all respects properly qualified and of good character, or (D) if the applicant is a limited liability company, each member is in all respects properly qualified and of good character;

(4) The applicant is in compliance with the provisions of sections 36a-602, 36a-603 and 36a-604, as amended by this act;

(5) No person on behalf of the applicant knowingly has made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to sections 36a-595 to 36a-610, inclusive, as amended by this act and sections 18 and 19 of this act; [and]

(6) No person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the commissioner any information lawfully required by the commissioner; [.] and

(7) The applicant has paid the investigation fee and license fee required under section 36a-599, as amended by this act.

[(b) If the commissioner conditionally approves an application, the applicant shall have thirty days, which the commissioner may extend for cause, to comply with the requirements of section 36a-602. Upon such compliance, the commissioner's conditional approval shall become final, and the commissioner shall issue a license to the applicant. The commissioner shall not issue a license to any applicant unless the applicant is in compliance with all the requirements of subsection (a) of this section and section 36a-602 and the applicant has paid the investigation and license fee required under section 36a-599.]

[(c)] (b) The commissioner may deny an application if the commissioner finds that the applicant or any of its partners, directors, trustees, principal officers or shareholders owning ten per cent or more of the shares of the applicant or members: (1) Are listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury or Department of State pursuant to Presidential Executive Order No. 13324, or (2) have been convicted of any misdemeanor involving any aspect of the money transmission business, [or the business of issuing payment instruments,] or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

Sec. 7. Section 36a-601 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):



(a) A license may be renewed for the ensuing twenty-four-month period upon the filing of an application containing all information required by section 36a-598, as amended by this act. Such renewal application shall be filed on or before September first of the year in which the license expires; [, or in the case of an application for renewal of a license that expires on June 30, 2007, on or before June 1, 2007.] Any renewal application filed with the commissioner after September first [, or in the case of a license that expires on June 30, 2007, after June 1, 2007,] shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. If an application for a renewal license has been filed with the commissioner on or before the date the license expires, the license sought to be renewed shall continue in full force and effect until the issuance by the commissioner of the renewal license applied for or until the commissioner has notified the licensee in writing of the commissioner's refusal to issue such renewal license together with the grounds upon which such refusal is based. The commissioner may refuse to issue a renewal license on any ground on which the commissioner might refuse to issue an ~~original~~ initial license.

(b) If the commissioner determines that a check filed with the commissioner to pay an investigation or license fee has been dishonored or if made by ACH, has been returned, the commissioner shall automatically suspend a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for refusal to renew such license and an opportunity for a hearing on such actions in accordance with section 36a-51.

Sec. 8. Section 36a-602 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) As a condition for the issuance and retention of the license, applicants for a license and licensees shall file with the commissioner a surety bond, the form of which shall be approved by the Attorney General, issued by a bonding company or insurance company authorized to do business in this state. The bond shall be conditioned upon the licensee and the licensee's authorized delegates faithfully performing all obligations with respect to the receipt, handling, transmission or payment of money or monetary value in connection with the sale and issuance of Connecticut payment instruments or stored

value or transmission of money or monetary value and conducting such business consistent with the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act. The bond shall be in favor of the commissioner, [cover claims that arise during the period the license remains in full force and effect and the succeeding two years after such license has been surrendered, revoked or suspended or has expired, in accordance with the provisions of sections 36a-595 to 36a-610, inclusive,] run concurrently with the period of the license and be in the principal sum of (1) three hundred thousand dollars for any applicant and any licensee that engages in the business of issuing Connecticut payment instruments with an average daily balance of outstanding Connecticut payment instruments during the [two previous reporting quarters] twelve-month period preceding the date of filing the initial or most recent renewal application of three hundred thousand dollars or less or any licensee that engages in the business of money transmission with an average weekly amount of money or monetary value received or transmitted, whichever amount is greater, during the [two previous reporting quarters] twelve-month period preceding the date of filing the initial or most recent renewal application of one hundred fifty thousand dollars or less; (2) five hundred thousand dollars for any licensee that engages in the business of issuing Connecticut payment instruments with an average daily balance of outstanding Connecticut payment instruments during the [two previous reporting quarters] twelve-month period preceding the date of filing the most recent renewal application of greater than three hundred thousand dollars but less than five hundred thousand dollars or any licensee that engages in the business of money transmission with an average weekly amount of money or monetary value received or transmitted, whichever amount is greater, during the [two previous reporting quarters] twelve-month period preceding the date of filing the most recent renewal application of greater than one hundred fifty thousand dollars but less than two hundred fifty thousand dollars; and (3) one million dollars for any licensee that engages in the business of issuing Connecticut payment instruments with an average daily balance of outstanding Connecticut payment instruments during the [two previous reporting quarters] twelve-month period preceding the date of filing the most recent renewal application equal to or greater than five hundred thousand dollars or any licensee that engages in the business of money transmission with an average

weekly amount of money or monetary value received or transmitted, whichever amount is greater, during the [two previous reporting quarters] twelve-month period preceding the date of filing most recent renewal application of two hundred fifty thousand dollars or greater.

(b) The proceeds of the bond, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of any claimants against the licensee to serve the faithful performance of the obligations of the licensee and the licensee's authorize delegates with respect to the receipt, handling, transmission or payment of money or monetary value in connection with the sale and issuance of Connecticut payment instruments or stored value or transmission of money or monetary value in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors. Any person who suffers loss as a result of acts or omissions in the money transmission business by a licensee or the licensee's authorized delegates may proceed against the licensee's bond. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50 and any unpaid costs of examination of the licensee as determined pursuant to section 36a-65, as amended by this act. [In the event a license has been surrendered, revoked or suspended or has expired, in accordance with the provisions of sections 36a-595 to 36a-610, inclusive, the commissioner, in the commissioner's discretion, may lower the required principal sum of the bond based on the licensee's level of business and outstanding Connecticut payment instruments.] The bond must cover claims made no more than two years after the date of the act or omission which resulted in the loss. When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond and immediately on recovery on any action on the bond, the licensee shall file a new bond. If the commissioner finds that the financial condition of a licensee so requires, as evidenced by the reduction of tangible net worth, financial losses or potential losses as a result of violation of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, the commissioner may require one or more additional bonds meeting the standards set forth in this section. The licensee shall file any

such additional bonds no later than ten days after receipt of the commissioner's written notice of such requirement.

[(b)] (c) The surety company may cancel the bond at any time by a written notice to the licensee, stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety company, the commissioner shall give written notice to the licensee of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the license on such date, unless the licensee, prior to such date, submits (1) a letter of reinstatement of the bond from the surety company, (2) a new bond, (3) evidence that all of the principal sum of such surety bond has been invested as provided in subsection (c) of this section, (4) a new bond that replaces the surety bond in part and evidence that the remaining part of the principal sum of such surety bond has been invested as provided in subsection (c) of this section, or (5) evidence that the licensee has ceased business and has surrendered the license. After a license has been automatically suspended, the commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew such license and an opportunity for a hearing on such actions in accordance with section 36a-51 and require the licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

[(c)] (d) In lieu of all or part of the principal sum of such surety bonds, applicants for a license and licensees may invest such sum as provided in this subsection. The book or market value, whichever is lower, of such investments shall be equal to the amount of the bond required by subsection (a) of this section less the amount of the bond filed with the commissioner by the applicant or licensee. Such applicants and licensees shall keep such investments with such banks, Connecticut credit unions or federal credit unions as such applicants or licensees may designate and the commissioner may approve, and subject to such conditions as the commissioner deems necessary for the protection of consumers and in the public interest. As used in this subsection, "investments" means: (1) Dollar deposits; and (2)

interest-bearing bills, notes, bonds, debentures or other obligations issued or guaranteed by (A) the United States or any of its agencies or instrumentalities, or (B) any state, or any agency, instrumentality, political subdivision, school district or legally constituted authority of any state if such investment is of prime quality. The investments shall secure the same obligation as would a surety bond filed under this section. The investments shall be held at such banks or credit unions to cover claims during the period the license remains in full force and effect and the succeeding two years after such license has been surrendered, revoked or suspended or has expired in accordance with the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act. The licensee shall be permitted to collect interest on such investments and at any time to exchange, examine and compare such investments. The investments made pursuant to this section, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of any claimants against the licensee to serve the faithful performance of the obligations of the licensee and the licensee's authorized delegates with respect to the receipt, handling, transmission or payment of money or monetary value in connection with the sale and issuance of Connecticut payment instruments or stored value or transmission of money or monetary value in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors.

Sec. 9. Section 36a-603 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Each licensee shall at all times maintain permissible investments having a value, computed in accordance with generally accepted accounting principles, at least equal to the aggregate amount of its outstanding [Connecticut payment instruments and stored value.] money transmissions, provided that the value of receivables due from authorized delegates consisting of the proceeds of the sale of payment instruments which are not past due or doubtful of collection shall not exceed thirty per cent of the permissible investments held by the licensee and receivables due from any one person shall not exceed ten per cent of the value of permissible investments held by the licensee.

(b) As used in subsection (a) of this section, "value" means the lower of book or market value, except that with regard to debt obligations which the licensee as a matter of policy retains until maturity, "value" means the greater of book or market value unless the commissioner orders that for some or all investments of a particular licensee, "value" means the lower of book or market value.

(c) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of any claimants against the licensee to serve the faithful performance of the obligations of the licensee and the licensee's authorized delegates with respect to the receipt, handling, transmission or payment of money or monetary value in connection with the sale and issuance of Connecticut payment instruments or stored value or transmission of money or monetary value in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors.

Sec. 10. Section 36a-604 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Each licensee which issues Connecticut payment instruments which are checks, drafts or money orders shall at all times have a tangible net worth of at least one hundred thousand dollars.

(b) Each licensee which issues Connecticut payment instruments which are travelers checks or electronic payment instruments shall at all times have a tangible net worth of at least one million dollars.

(c) Each licensee that engages in the business of money transmission, except by issuing stored value, shall at all times have a tangible net worth of at least five hundred thousand dollars. Each licensee that engages in the business of money transmission by issuing stored value shall at all times have a tangible net worth of at least five hundred thousand dollars or a higher amount as determined by the commissioner, in accordance with generally accepted accounting principles.

Sec. 11. Section 36a-605 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

In connection with the examination of a licensee under section 36a-17, the commissioner may also examine the [agents] authorized delegates of such licensee. The commissioner, in lieu of conducting an

examination, may accept the report of examination of any other state or federal supervisory agency or any organization affiliated with or representing such supervisory agency with respect to the examination or other supervision of any person subject to the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, or a report prepared by an independent accounting firm, and reports so accepted are considered for purposes of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, as an official examination report of the commissioner.

Sec. 12. Section 36a-606 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) On or before the thirtieth day of April each year, each licensee shall file with the commissioner:

(1) [Its most recently audited unconsolidated financial statement, including its balance sheet and receipts and disbursements for the preceding year, prepared by an independent certified public accountant acceptable to the commissioner;] (A) A copy of audited financial statements for the most recent fiscal year; (B) if a wholly-owned subsidiary of another corporation, (i) the most recent audited consolidated annual financial statements of the parent corporation or the licensee's most recent audited consolidated annual financial statement, and (ii) the most recent audited unconsolidated financial statement of the licensee, including its balance sheet and receipts and disbursements for the preceding year; and (C) if publicly traded, a copy of the most recent 10-K report filed with the Securities and Exchange Commission, or if a wholly-owned subsidiary of a publicly traded company, a copy of the parent company's most recent 10-K report filed with the Securities and Exchange Corporation. In the event that the licensee or parent company of a wholly-owned subsidiary licensee is publicly traded on a foreign exchange, a copy of similar documentation filed with the applicable securities regulator;

(2) A list of permissible investments, the book and market value of such investments, and the dollar amount of the licensee's aggregate outstanding payment instruments; and

(3) A list of investments maintained in accordance with subsection (c) of section 36a-602, as amended by this act, if applicable, the book and market values of such investments and the dollar amount of the licensee's aggregate outstanding Connecticut payment instruments and stored value.

(b) The lists and other information filed as provided in subdivisions (2) and (3) of subsection (a) of this section shall be as of the same date as the financial statement filed in accordance with subdivision (1) of subsection (a) of this section.

(c) The commissioner may require of any licensee such additional reports, under oath, certified, or otherwise, concerning such licensee's business in this state as the commissioner may consider necessary for the enforcement of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act.

Sec. 13. Section 36a-606a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Each licensee shall comply with the applicable provisions of the Currency and Foreign Transactions Reporting Act, 31 USC Section 5311 et seq., as from time to time amended, and any regulations adopted under such provisions, as from time to time amended, [ ] and upon request, shall provide proof of such compliance to the commissioner. In addition to any other remedies provided by law, a violation of such federal law or regulation shall be deemed a violation of this section and a basis upon which the commissioner may take enforcement action pursuant to section 36a-608, as amended by this act.

Sec. 14. Section 36a-607 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) A licensee may conduct its business at one or more locations within this state as follows:

(1) The business may be conducted by the licensee or through or by means of such [agents] authorized delegates as the licensee may periodically designate or appoint. The licensee shall notify the commissioner of any authorized delegate that acts on its behalf. An [agent] authorized delegate may not engage in the business of [issuing Connecticut payment instruments or the business of] money



transmission on behalf of a licensee through or by means of [a subagent] any person that is not an authorized delegate of the licensee.

(2) No license under sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, shall be required of any [agent] authorized delegate of a licensee.

(3) Each [agent] authorized delegate of a licensee shall, from the moment of receipt, hold the proceeds of a sale or delivery of a licensee's [Connecticut payment instruments] money transmissions in trust for the benefit of such licensee.

(4) A licensee shall be liable for the loss caused to any purchaser or holder of the licensee's Connecticut payment instruments by the failure of an [agent] authorized delegate of the licensee to forward to the licensee the amount due from the proceeds of a sale or delivery of the licensee's Connecticut payment instruments, or money or monetary value received for transmission.

(5) The licensee shall enter into a contract with each of its [agents] authorized delegates that requires the [agent] authorized delegate to operate in full compliance with sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, and provides that appointment of the [agent] authorized delegate is not effective during any period when the license of the licensee has been suspended. The licensee shall provide each such [agent] authorized delegate with policies and procedures sufficient to ensure compliance with sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act.

(6) An [agent] authorized delegate of a licensee shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the [agent] authorized delegate.

(7) An [agent] authorized delegate of a licensee shall not provide money transmission services outside the scope of activity permissible under the contract between the [agent] authorized delegate and the licensee.

(b) For purposes of subsection (a) of this section, a [licensee] "licensee" means any person that has obtained a license from the commissioner as provided in section 36a-600, as amended by this act, [and any entity or person exempt under section 36a-609.]

Sec. 15. Section 36a-608 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The commissioner shall make such investigations [and conduct such hearings as the commissioner considers necessary] to determine whether any licensee or any other person has violated or is about to violate any of the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, or whether any licensee has acted in such manner as otherwise would justify the suspension or revocation of the license. The provisions of section 36a-17 shall apply to such investigation. For purposes of this section, "unsafe or unsound practice" means a practice or conduct by a licensee or an authorized delegate of such licensee that is likely to result in a material loss, insolvency or dissipation of the licensee's assets or otherwise materially prejudice the interests of purchasers.

(b) The commissioner may suspend or revoke a license or take any other action, in accordance with section 36a-51, on any ground on which the commissioner might refuse to issue an [original] initial license, for any violation of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, or of any regulation adopted under said sections, for noncompliance with an order that the commissioner may issue under said sections to a licensee, for failure of the licensee to pay a judgment ordered by any court within or outside this state within thirty days after the judgment becomes final or within thirty days after expiration or termination of a stay of execution of the judgment, for engaging in fraud, intentional misrepresentation or gross negligence, or for engaging in an unsafe [and] or unsound practice.

(c) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any provision of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, or any regulation adopted under said sections, or any licensee has failed to pay a judgment ordered by any court within or outside of this state thirty days after the date on which the judgment becomes final or thirty days after the date of the expiration or termination of a stay of execution of the judgment, or engaged in fraud, intentional misrepresentation or gross negligence, or engaged in an

unsafe [and] or unsound practice, the commissioner may take action against such person in accordance with sections 36a-50 and 36a-52.

(d) The commissioner may order a licensee to terminate its agency relationship with any [agent] authorized delegate if the commissioner finds that: (1) The [agent] authorized delegate violated any provision of sections 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18 and 19 of this act, or any regulation adopted under said sections or any other law or regulation applicable to the conduct of its business; (2) the [agent] refused to allow an examination of its books and records regarding the business of such licensee as provided in section 36a-605] authorized delegate failed to cooperate with an examination or investigation by the commissioner; (3) the [agent] authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence or misappropriated funds; (4) the [agent] authorized delegate has been convicted of a violation of a state or federal anti-money laundering statute; (5) the competence, experience, character or general fitness of the [agent] authorized delegate or a manager, partner, director, trustee, principal officer, member or shareholder owning ten per cent or more of each class of the [agent's] authorized delegate's securities demonstrates that it would not be in the public interest to permit such [agent] authorized delegate to engage in the business of [issuing Connecticut payment instruments or the business of] money transmission on behalf of a licensee; [or] (6) the [agent] authorized delegate is engaging in an unsafe or unsound practice; [. ] or (7) the authorized delegate is convicted of any act involving fraud or dishonesty.

Sec. 16. Section 36a-609 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The provisions of sections 36a-597 to [36a-606a] 36a-607, inclusive, as amended by this act, and sections 18 and 19 of this act, shall not apply to:

(1) Any federally insured federal bank, out-of-state bank, Connecticut bank, Connecticut credit union, federal credit union or out-of-state credit union, provided such institution does not issue or sell Connecticut payment instruments or transmit money or monetary value through [an agent] any person

which is not a federally insured federal bank, out-of-state bank, Connecticut bank, Connecticut credit union, federal credit union or out-of-state credit union;

[(2) Any Connecticut bank or Connecticut credit union;]

[(3)] (2) The United States Postal Service and any contractor which engages in the business of money transmission or sells payment instruments or stored value on behalf of the United States Postal Service; and

[(4)] (3) A person whose activity is limited to the electronic funds transfer of governmental benefits for or on behalf of a federal, state or other governmental agency, quasi-governmental agency or government sponsored enterprise.

Sec. 17. Section 36a-610 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The commissioner may adopt regulations, in accordance with chapter 54, which are necessary or appropriate for the administration of sections 36a-595 to 36a-609, inclusive, as amended by this act, and sections 18 and 19 of this act.

Sec. 18. (NEW) (*Effective October 1, 2013*) (a) Each licensee shall maintain and prepare such records as will enable the Banking Commissioner to determine whether the licensee is complying with the provisions of sections 36a-595 to 36a-609, inclusive, as amended by this act, and sections 18 and 19 of this act at the office named in the license, or, if requested by the commissioner, shall make such records available at such office or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon request, the commissioner may grant a licensee additional time to makes such records available or send them to the commissioner.

(b) Each licensee shall maintain the following records for at least five years:

(1) A record of each payment instrument or stored-value obligation sold;

(2) A general ledger posted at least monthly containing all asset, liability, capital, income and expense accounts;

- (3) Bank statements and bank reconciliation records;
- (4) Records of outstanding payment instruments and stored-value obligations;
- (5) Records of each payment instrument and stored-value obligation paid within the five-year period;
- (6) A list of the last known names and addresses of all of the licensee's authorized delegates; and
- (7) Any other records the commissioner may require.

Sec. 19. (NEW) (*Effective October 1, 2013*) A licensee shall notify the Banking Commissioner in writing no later than fifteen days after any change in the list of authorized delegates or locations in this state where the licensee or an authorized delegate engages in the business of money transmission, sells payment instruments or stored value. Such notice shall state the name and street address of each authorized delegate or of each location removed or added to the licensee's list.

Sec. 20. Section 36a-715 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

As used in sections 36a-715 to 36a-718, inclusive, as amended by this act, and sections 24 to 37, inclusive, of this act, unless the context otherwise requires:

[(1)] "First mortgage loan" has the same meaning as provided in section 36a-485.]

[(2)] (1) ["Mortgage servicing company"] "Mortgage servicer" means any person, wherever located, who, for such person or on behalf of the holder of a [first] residential mortgage loan, receives payments of principal and interest in connection with a [first] residential mortgage loan, records such payments on such person's books and records and performs such other administrative functions as may be necessary to properly carry out the mortgage holder's obligations under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment of real estate taxes and insurance premiums and the distribution of such funds to the taxing authority and insurance company. Such term includes persons who make payments to borrowers pursuant to the terms of a home equity conversion mortgage or reverse mortgage. "Mortgage servicer" does not include: (1) Any person exempt from licensure as a mortgage lender or mortgage correspondent lender pursuant to

subsection (b) of section 36a-487, (2) persons servicing five or fewer residential mortgage loans within any period of twelve consecutive months, and (3) agencies of the federal government, any state or municipal government or any quasi-governmental agency servicing residential mortgage loans under the specific authority of the laws of any state or the United States.

(2) "Mortgagee" means the grantee of a residential mortgage, provided if the residential mortgage has been assigned of record, "mortgagee" means the last person to whom the residential mortgage has been assigned of record.

(3) "Mortgagor" means any person obligated to repay a [first] residential mortgage loan.

(4) "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling, as defined in section in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, located in this state, or real property located in this state upon which is constructed or intended to be constructed a dwelling, as so defined.

Sec. 21. Section 36a-716 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

(a) Any mortgage [servicing company] servicer which receives funds from a mortgagor to be held in escrow for payment of taxes and insurance premiums shall pay the taxes and insurance premiums of the mortgagor to the appropriate taxing authority and insurance company in the amount required and at the time such taxes and insurance premiums are due provided (1) the mortgage [servicing company] servicer has been provided with the tax or insurance bills at least fifteen days prior to the date such taxes and insurance premiums are due, and (2) the mortgagor has paid to the mortgage [servicing company] servicer the amounts required to be paid into the escrow account, as determined by the mortgage [servicing company] servicer, for all amounts scheduled to be paid to the mortgage [servicing company] servicer prior to the date such taxes and insurance premiums are due.

(b) Each mortgage [servicing company] servicer shall, through its own effort and expense, determine and notify the mortgagor of the amounts necessary to be paid into the escrow account to assure

that sufficient funds will be available for the payment of such taxes and insurance premiums as of the date such payment is due.

(c) If the amount held in the escrow account as of the date such taxes and insurance premiums are due is insufficient to pay the taxes and insurance premiums despite compliance by the mortgagor with subdivision (2) of subsection (a) of this section, the mortgage [servicing company] servicer shall pay such taxes and insurance premiums from its own funds. The mortgage [servicing company] servicer shall then give the mortgagor the option of paying the shortage over a period of not less than one year. The mortgage [servicing company] servicer shall not charge or collect interest on such shortage during the one-year period.

Sec. 22. Sec. 36a-717 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

Any mortgage [servicing company] servicer which violates any provision of section 36a-716, as amended by this act, shall be liable to the mortgagor for: (1) Any penalties, interest or other charges levied by the taxing authority or insurance company as a result of such violation; (2) any actual damages suffered by the mortgagor as a result of such violation, including, but not limited to, any amount which would have been paid by an insurer for a casualty or liability claim had the insurance policy not been cancelled for nonpayment by the mortgage [servicing company] servicer; and (3) in the case of any successful action to enforce the foregoing liability, the costs of the action together with reasonable attorney's fees as determined by the court.

Sec. 23. Sec. 36a-718 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2014*):

[If the commissioner determines that any mortgage servicing company has violated any provision of section 36a-716, the commissioner may take action against such mortgage servicer in accordance with sections 36a-50 and 36a-52. The commissioner may also order the mortgage servicing company to make restitution to the mortgagor upon fourteen days' notice in writing. Such notice shall be sent by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to

the principal place of business of the mortgage servicing company and shall state the grounds for the contemplated action. Within fourteen days of receipt of the notice, the mortgage servicing company may file a written request for a hearing. If a hearing is requested, the commissioner shall not issue an order to make restitution until after such hearing is held. Such hearing shall be conducted in accordance with the provisions of chapter 54.] (a) No person shall act as a mortgage servicer, directly or indirectly, of a residential mortgage loan without first obtaining a license under section 24 of this act from the commissioner for its main office and each branch office where such business is conducted, unless such person is exempt from licensure pursuant to subsection (b) of this section.

(b) The following persons are exempt from mortgage servicer licensing requirements: (1) Any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union, provided such bank or credit union is federally insured, any operating subsidiary of a federal bank or federally-chartered out-of-state bank or any wholly-owned subsidiary of a Connecticut bank or Connecticut credit union; and (2) any person licensed as a mortgage lender in this state under sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b.

Sec. 24. (NEW) *(Effective November 1, 2013)* (a) The Banking Commissioner may issue a mortgage servicer license, provided that the commissioner shall not issue a mortgage servicer license to any person unless the commissioner, at a minimum, finds that: (1) The applicant has identified a qualified individual for its main office and a branch manager for each branch office where such business is conducted. Any qualified individual and branch manager shall have supervisory authority over the mortgage servicer activities at the respective office location and at least three years' experience in the mortgage servicing business within the five years immediately preceding the date of the application for licensure. As used in this subdivision, "experience in the mortgage servicing business" means paid experience in the servicing of mortgage loans, experience in the accounting, receipt and processing of payments on behalf of mortgagees or creditors or in the supervision of such activities, or any other relevant experience as determined by the commissioner; (2) notwithstanding the provisions of section 46a-80 of the general statutes, the applicant, the control persons of the applicant, the qualified individual



and any branch manager with supervisory authority at the office for which the license is sought have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court during the seven-year period preceding the date of the application for licensing or at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering, provided any pardon or expungement of a conviction shall not be a conviction for purposes of this subdivision; (3) the applicant demonstrates that the financial responsibility, character and general fitness of the applicant, the control persons of the applicant, the qualified individual and any branch manager having supervisory authority over the office for which the license is sought are such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly and efficiently within the purposes of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act; (4) the applicant has met the surety bond requirement under section 27 of this act; and (5) the applicant has not made a material misstatement in the application. For purposes of this subsection, the level of offense of the crime and the status of any conviction, pardon or expungement shall be determined by reference to the law of the jurisdiction where the case was prosecuted. In the event that such jurisdiction does not use the term "felony", "pardon" or "expungement", such terms shall include legally equivalent events. If the commissioner fails to make such findings, the commissioner shall not issue a license, and shall notify the applicant of the denial and the reasons for such denial.

(b) An application for a license as a mortgager servicer or renewal of such license shall be filed, in a form prescribed by the commissioner, with the system and accompanied by the fees required by section 26 of this act. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purpose of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 18, inclusive, of this act. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager, including personal history and experience in a form prescribed by the

system and information related to any administrative, civil or criminal findings by any governmental jurisdiction. The applicant shall promptly notify the commissioner, in writing, of any change to the information submitted in connection with its application for licensure. For the purpose of this subsection, evidence of experience of the qualified individual and any branch manager shall include: (A) A statement specifying the duties and responsibilities of such person's employment, the term of employment, including month and year, and the name, address and telephone number of a supervisor, employer or, if self-employed, a business reference; and (B) if required by the commissioner, copies of W-2 forms, 1099 tax forms or, if self-employed, 1120 corporate tax returns, signed letters from the employer on the employer's letterhead verifying such person's duties and responsibilities and term of employment including month and year, and if such person is unable to provide such letters, other proof satisfactory to the commissioner that such person meets the experience requirement. The commissioner may conduct a criminal history records check of the applicant, any control person of the applicant, the qualified individual and any branch manager with supervisory authority at the office for which the license is sought and require the applicant to submit the fingerprints of such persons as part of the application.

(c) (1) The minimum standards for license renewal for a mortgage servicer shall include the following: (A) The applicant continues to meet the minimum standards under subsection (a) of this section, and (B) the mortgage servicer has paid all required fees for renewal of the license.

(2) The license of a mortgage servicer failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the system. The commissioner may automatically suspend a mortgage servicer license if the licensee receives a deficiency on the system indicating that the payment required by section 26 of this act was Returned-ACH or returned pursuant to such other term as may be utilized by the system to indicate that the payment was not accepted. After a license has been automatically suspended pursuant to this section, the commissioner shall give such licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 35 of this act and an opportunity for a hearing on such action in accordance with section 36a-51 of the general statutes, and

require such licensee to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this section.

(d) Withdrawal of an application for a license filed under this section shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

(e) The commissioner may deem an application for a license under this section abandoned if the applicant fails to respond to any request for information required under sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act or the regulations adopted pursuant to said sections. The commissioner shall notify the applicant on the system that if such information is not submitted not later than sixty days from the date of such request the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license.

(f) At least annually, as part of its application, a mortgage servicer shall file with the commissioner: (1) A current schedule of the ranges of costs and fees it charges mortgagors for its servicing-related activities; and (2) a report in a form and format acceptable to the commissioner detailing the mortgage servicer's activities in the state, including: (A) The number of residential mortgage loans the mortgage servicer is servicing, (B) the type and characteristics of the residential mortgage loans in this state, (C) the number of serviced residential mortgage loans in default, along with a breakdown of thirty-day, sixty-day and ninety-day delinquencies, (D) information on loss mitigation activities, including details on workout arrangements undertaken, and (E) information on foreclosures commenced in this state.

Sec. 25. (NEW) (*Effective November 1, 2013*) (a)(1) A mortgage servicer license shall not be transferable or assignable. No licensee may use any name other than its legal name or a fictitious name approved by the Banking Commissioner, provided such licensee may not use its legal name if the

commissioner disapproves use of such name. Any licensee who intends to permanently cease acting as a mortgage servicer at any time during a license period for any cause, including, but not limited to, bankruptcy or voluntary dissolution, shall file a request to surrender the license for each office at which the licensee intends to cease to do business, on the system, not later than fifteen days after the date of such cessation, provided this requirement shall not apply when a license has been suspended pursuant to section 36a-51 of the general statutes. No surrender shall be effective until accepted by the commissioner.

(b) A mortgage servicer licensee may change the name of the licensee or address of any office specified on the most recent filing with the system if: (1) At least thirty calendar days prior to such change, the licensee files such change with the system and, in the case of a main office or branch office, provides, directly to the commissioner, a bond rider or endorsement, or addendum, as applicable, to the surety bond on file with the commissioner that reflects the new name or address of the main office or branch office, and (2) the commissioner does not disapprove such change, in writing, or request further information within such thirty-day period.

(c) The mortgage servicer licensee shall promptly file with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the occurrence of any of the following events:

- (1) Filing for bankruptcy, or the consummation of a corporate restructuring, of the licensee;
- (2) Filing of a criminal indictment against the licensee, or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's officers, directors, members, partners or shareholders owning ten per cent or more of the outstanding stock;
- (3) Receiving notification of the institution of license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action by any governmental agency against the licensee and the reasons therefor;
- (4) Receiving notification of the initiation of any action by the Attorney General or the attorney general of any other state and the reasons therefor;

(5) Suspension or termination of the licensee's status as an approved seller or servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association;

(6) Receiving notification that certain servicing rights of the licensee will be rescinded or cancelled, and the reasons provided therefor;

(7) Receiving notification of filing for bankruptcy of any of the licensee's officers, directors, members, partners or shareholders owning ten per cent or more of the outstanding stock of the licensee;

(8) Receiving notification of the initiation of a class action lawsuit on behalf of consumers against the licensee that is related to the operation of the licensed business; or

(9) Any change in the information most recently submitted by the licensee in connection with its application.

Sec. 26. (NEW) (*Effective November 1, 2013*) (a) Each mortgage servicer license shall expire at the close of business on December thirty-first of the year in which it is approved, unless such license is renewed, and provided any such license that is approved on or after November first shall expire at the close of business on December thirty-first of the year following the year in which it is approved. An application for renewal of a license shall be filed between November first and December thirty-first of the year in which the license expires. Each applicant for an initial license or renewal of a license as a mortgage servicer shall pay to the system any required fees or charges and a license fee of one thousand dollars.

(b) All fees paid pursuant to this section, including fees paid in connection with an application that is denied or withdrawn prior to the issuance of the license, shall be nonrefundable. No fee paid pursuant to this section shall be prorated if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was approved.

Sec. 27. (NEW) (*Effective November 1, 2013*) (a) No mortgage servicer license and no renewal thereof shall be granted unless the applicant or licensee has filed with the Banking Commissioner a single

surety bond, written by a surety authorized to write such bonds in this state covering its main office and any branch office, in a penal sum of one hundred thousand dollars.

(b) The bond required by subsection (a) of this section shall be (1) in a form approved by the Attorney General, and (2) conditioned upon the mortgage servicer licensee faithfully performing any and all written agreements or commitments with or for the benefit of mortgagors and mortgagees, truly and faithfully accounting for all funds received from a mortgagor or mortgagee by the licensee in the licensee's capacity as a mortgage servicer, and conducting such mortgage business consistent with the provisions of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act. Any mortgagor or mortgagee that may be damaged by a mortgage servicer licensee's failure to perform any written agreements or commitments, or by the wrongful conversion of funds paid by a mortgagor or a mortgagee to a licensee, may proceed on such bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon a licensee pursuant to subsection (a) of section 36a-50 of the general statutes and any unpaid costs of examination of a licensee as determined pursuant to section 36a-65 of the general statutes, as amended by this act. The proceeds of the bond, even if commingled with other assets of the principal, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the principal in the event of bankruptcy of the principal and shall be immune from attachment by creditors and judgment creditors. The bond shall run concurrently with the period of the license for the main office and the aggregate liability under the bond shall not exceed the penal sum of the bond. The principal shall notify the commissioner of the commencement of an action on the bond. When an action is commenced on a principal's bond, the commissioner may require the filing of a new bond and immediately on recovery on any action on the bond, the principal shall file a new bond.

(c) The surety company shall have the right to cancel the bond at any time by a written notice to the principal stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the principal at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled

unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety company, the commissioner shall give written notice to the principal of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the license of a mortgage servicer on such date. No automatic suspension or inactivation shall occur if, prior to the date that the bond cancellation shall take effect, (1) the principal submits a letter of reinstatement of the bond from the surety company or a new bond, or (2) the mortgage servicer licensee has ceased business in this state and has surrendered all licenses in accordance with section 36a-51 of the general statutes and section 25 of this act. After a mortgage servicer license has been automatically suspended pursuant to this section, the commissioner shall give such licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 35 of this act and an opportunity for a hearing on such action in accordance with section 36a-51 of the general statutes and require such licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

Sec. 28. (NEW) (*Effective November 1, 2013*): (a) Each mortgage servicer licensee shall maintain adequate records of each residential mortgage loan transaction at the office named in the license, or, if requested by the Banking Commissioner, shall make such records available at such office or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon request, the commissioner may grant a licensee additional time to make such records available or send them to the commissioner. Such records shall provide the following information: (1) An adequate loan history for residential mortgage loans upon which payments are received or made by the mortgage servicer, itemizing the amount and date of each payment and the unpaid balance at all times; (2) the original or an exact copy of the note, residential mortgage or other evidence of indebtedness and mortgage deed; (3) the name and address of the mortgage lender, mortgage correspondent lender and mortgage broker, if any, involved in the residential mortgage loan transaction; (4) copies of any disclosures or notification provided to the mortgagor required by state or federal law; (5)

a copy of any bankruptcy plan approved in a proceeding filed by the mortgagor or a co-owner of the property subject to the residential mortgage loan; (6) a communications log which documents all verbal communication with the mortgagor or the mortgagor's representative; and (7) a copy of all notices sent to the mortgagor related to any foreclosure proceeding filed against the encumbered property.

(b) For each residential mortgage loan that is serviced by a licensee, the licensee shall retain the records of such residential mortgage loan transaction for not less than two years following the final payment thereon, or the assignment of such residential mortgage loan, whichever occurs first, or such longer period as may be required by any other provision of law. Every licensee shall keep and use in its business, books, accounts and records which will enable the commissioner to determine whether such licensee is complying with the provisions of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act and with any regulations adopted pursuant thereto.

Sec. 29. (NEW) (*Effective January 1, 2014*) Upon assignment of servicing rights on a residential mortgage loan, the mortgage servicer shall disclose to the mortgagor: (1) Any notice required by the federal Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., as from time to time amended, and the regulations promulgated thereunder, and within the time periods prescribed therein; and (2) a schedule of the ranges and categories of its costs and fees for its servicing-related activities, which shall comply with state and federal law and, if such disclosure is made by a mortgage servicer licensee, shall not exceed those reported to the Banking Commissioner in accordance with section 24 of this act.

Sec. 30. (NEW) (*Effective January 1, 2014*) A mortgage servicer shall act with good faith and fair dealing in its communications, transactions and course of dealings with each mortgagor in connection with the servicing of the mortgagor's residential mortgage loan, and shall:

- (1) Safeguard and account for any money handled for the mortgagor;
- (2) Follow reasonable and lawful instructions from the mortgagor consistent with the underlying note and residential mortgage loan;
- (3) Act with reasonable skill, care and diligence;



- (4) Promptly provide the mortgagor with an accurate statement of account;
- (5) Make mortgagors in default aware of loss mitigation options and services offered by the mortgage servicer;
- (6) Provide trained personnel and telephone facilities sufficient to respond promptly to mortgagor inquiries and complaints regarding their residential mortgage loans; and
- (7) Pursue loss mitigation with the mortgagor whenever possible.

Sec. 31. (NEW) (*Effective January 1, 2014*) A mortgage servicer shall comply with all applicable federal laws and regulations relating to mortgage loan servicing, including but not limited to the federal Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., the federal Truth-in-Lending Act, 15 USC Section 1601 et seq., as from time to time amended, and the regulations promulgated thereunder. In addition to any other remedies provided by law, a violation of such federal law or regulation shall be deemed a violation of this section and a basis upon which the Banking Commissioner may take enforcement action pursuant to section 35 of this act.

Sec. 32. (NEW) (*Effective January 1, 2014*) (a) A mortgage servicer shall maintain and keep current a schedule of standard or common fees, such as nonsufficient fund fees, that it charges mortgagors. A mortgage servicer shall make its schedule available to the mortgagor or the mortgagor's authorized representative upon request. The schedule shall identify each fee, provide a plain English explanation of the fee and state the amount of the fee or range of amounts or, if there is no standard fee, how the fee is calculated or determined.

(b) A mortgage servicer may only collect a fee if the fee is for services actually rendered and one of the following conditions is met: (1) The fee is expressly authorized and clearly and conspicuously disclosed by the residential mortgage loan instruments and not prohibited by law; (2) the fee is expressly permitted by law and not prohibited by the residential mortgage loan instruments; or (3) the fee is not prohibited by law or the residential mortgage loan instruments and is a reasonable fee for a specific service requested by the mortgagor that is assessed only after clear and conspicuous disclosure of the fee

is provided to the mortgagor and the mortgagor expressly consents to pay the fee in exchange for the services.

(c) In addition to the limitations in subsection (b) of this section, attorneys fees charged in connection with a foreclosure action shall not exceed reasonable and customary fees for such work. In the event a foreclosure action is terminated prior to the final judgment and sale for a loss mitigation option, a reinstatement or payment in full, the mortgagor shall only be liable for reasonable and customary fees for work actually performed.

(d) A mortgage servicer shall not impose any late fee or delinquency charge when the only delinquency is attributable to late fees or delinquency charges assessed on an earlier payment, and the payment is otherwise a full payment for the applicable period and is paid on its due date or within any applicable grace period. Late charges shall not be (1) based on an amount greater than the past due amount; (2) collected from the escrow account or from escrow surplus without the approval of the mortgagor; or (3) deducted from any regular payment.

Sec. 33. (NEW) *(Effective January 1, 2014)* (a) No mortgage servicer shall:

(1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead mortgagors or mortgagees or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of the residential mortgage loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a residential mortgage loan, the terms and conditions of the servicing agreement or the mortgagor's obligations under the residential mortgage loan;

(3) Obtain property by fraud or misrepresentation;

(4) Use any unfair or unconscionable means in servicing a residential mortgage loan;

(5) Knowingly misapply or recklessly apply residential mortgage loan payments to the outstanding balance of a residential mortgage loan;

(6) Knowingly misapply or recklessly apply payments to escrow accounts;

(7) Place hazard, homeowner's or flood insurance on the mortgaged property when the mortgage servicer knows or has reason to know that the mortgagor has an effective policy for such insurance;

(8) Fail to comply with section 49-10a of the general statutes, charge excessive or unreasonable fees to provide loan payoff information or fail to provide loan payoff information promptly upon receipt of a written request;

(9) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a mortgagor's creditworthiness;

(10) Fail to report both the favorable and unfavorable payment history of the mortgagor to a nationally recognized consumer credit bureau at least annually if the mortgage servicer regularly reports information to a credit bureau;

(11) Collect private mortgage insurance beyond the date for which private mortgage insurance is required;

(12) Knowingly or recklessly facilitate the illegal foreclosure of real property collateral;

(13) Fail to issue a release of mortgage in accordance with section 49-8a of the general statutes;

(14) Fail to provide written notice to a mortgagor upon taking action to place hazard, homeowner's or flood insurance on the mortgaged property, including a clear and conspicuous statement of the procedures by which the mortgagor may demonstrate that he or she has the required insurance coverage and by which the mortgage servicer shall terminate the insurance coverage placed by it and refund or cancel any insurance premiums and related fees paid by or charged to the mortgagor;

(15) Place hazard, homeowner's or flood insurance on a mortgaged property, or require a mortgagor to obtain or maintain such insurance, in excess of the replacement cost of the improvements on the mortgaged property as established by the property insurer;

(16) Fail to provide to the mortgagor a refund of unearned premiums paid by a mortgagor or charged to the mortgagor for hazard, homeowner's or flood insurance placed by a mortgagee or the mortgage servicer if the mortgagor provides reasonable proof that the mortgagor has obtained coverage such that the forced placement insurance is no longer necessary and the property is insured. If the

mortgagor provides reasonable proof that no lapse in coverage occurred such that the forced placement was not necessary, the mortgage servicer shall promptly refund the entire premium;

(17) Require funds to be remitted by means more costly to the mortgagor than a bank or certified check or attorney's check from an attorney's account;

(18) Refuse to communicate with an authorized representative of the mortgagor who provides a written authorization signed by the mortgagor, provided that the mortgage servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the mortgagor;

(19) Conduct any business covered by sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act without holding a valid license required under this act, or assist or aid and abet any person in the conduct of business without a valid license as required under title 36a;

(20) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or the system, as defined in section 36a-485 of the general statutes, or in connection with any investigation conducted by the Banking Commissioner or another governmental agency;

(21) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b of the general statutes.

(b) A violation of this section shall be deemed an unfair or deceptive trade practice and may be enforceable pursuant to chapter 735a of the general statutes.

Sec. 34. (NEW) (*Effective November 1, 2013*) (a) In addition to any authority provided under title 36a, the Banking Commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance

with sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act, act the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to: (A) Criminal, civil and administrative history information; (B) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act, 15 USC 1681a; and (C) any other documents, information or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

(2) For the purposes of investigating violations or complaints arising under sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act or for the purposes of examination, the commissioner may review, investigate or examine any mortgage servicer licensee or person subject to said sections as often as necessary in order to carry out the purposes of said sections. The commissioner may direct, subpoena or order the attendance of and examine under oath all persons whose testimony may be required about the residential mortgage loans or the business or subject matter of any such examination or investigation, and may direct, subpoena or order such person to produce books, accounts, records, files and any other documents the commissioner deems relevant to the inquiry.

(b) Each mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including accounting compilations, information lists and data concerning residential mortgage loan transactions in a format prescribed by the commissioner or such other information the commissioner deems necessary to carry out the purposes of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act.

(c) In making any examination or investigation authorized by this section, the commissioner may control access to any documents and records of the mortgage servicer licensee or person under

examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the mortgage servicer licensee or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act the mortgage servicer licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(d) In order to carry out the purposes of this section, the commissioner may:

(1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

(2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section;

(3) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act;

(4) Accept and rely on examination or investigation reports made by other government officials, within or without this state; and

(5) Accept audit reports made by an independent certified public accountant for the mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act in the course of that part of the

examination covering the same general subject matter as the audit and may incorporate the audit report in the report of examination, report of investigation or other writing of the commissioner.

(e) The authority of this section shall remain in effect, whether such mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(f) No mortgage servicer licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

Sec. 35. (NEW) (*Effective November 1, 2013*) (a)(1) The Banking Commissioner may suspend, revoke or refuse to renew any mortgage servicer license or take any other action, in accordance with the provisions of section 36a-51 of the general statutes, for any reason which would be sufficient grounds for the commissioner to deny an application for such license under section 24 of this act, or if the commissioner finds that the licensee, any control person of the licensee, the qualified individual or any branch manager with supervisory authority, trustee, employee or agent of such licensee has done any of the following: (A) Made any material misstatement in the application; (B) committed any fraud or misrepresentation or misappropriated funds; (C) violated any of the provisions of title 36a of the general statutes or of any regulations adopted pursuant thereto, or any other law or regulation applicable to the conduct of its business; or (D) failed to perform any agreement with a mortgagee or a mortgagor.

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate section 49-8a or 49-10a of the general statutes, any of the provisions of title 36a of the general statutes or of any regulations adopted pursuant thereto, or any licensee has failed to perform any agreement with a mortgagee or mortgagor, committed any fraud, made any misrepresentation or misappropriated funds, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52 of the general statutes.

Sec. 36. (NEW) (*Effective November 1, 2013*) The Banking Commissioner may adopt such regulations, in accordance with chapter 54 of the general statutes, as the commissioner deems necessary to administer and enforce the provisions of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 24 to 37, inclusive, of this act.

Sec. 37. (NEW) (*Effective January 1, 2014*) Section 36a-718 of the general statutes, as amended by this act, and sections 29 to 33, inclusive, of this act shall apply to any person who acts as a mortgage servicer of residential mortgage loans in this state on or after January 1, 2014.

Sec. 38. Section 36a-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

This title shall be known as the "Banking Law of Connecticut" and shall be applicable to all Connecticut banks, Connecticut credit unions, mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators, loan processors or underwriters, money order and travelers check licensees, check cashing service licensees, trustees under mortgages or deeds of trust of real property securing certain investments, corporations exercising fiduciary powers, small loan licensees, sales finance companies, mortgage [servicing companies] servicers, debt adjusters, persons offering or engaging in debt negotiation and to such other persons as subject themselves to the provisions of this title or who, by violating any of its provisions, become subject to the penalties provided in this title.

Sec. 39. Section 36a-3 of the 2012 supplement to the general statutes, as amended by section 6 of public act 12-96, is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

Other definitions applying to this title or to specified parts thereof and the sections in which they appear are:

- "Account". Sections 36a-155 and 36a-365.
- "Additional proceeds". Section 36a-746e.
- "Administrative expense". Section 36a-237.
- "Advance fee". Sections 36a-485 and 36a-615.
- "Advertise", "advertisement" or "advertising". Section 36a-485.
- "Agency bank". Section 36a-285.
- "Agent". Section 36a-494.
- "Alternative mortgage loan". Section 36a-265.
- "Amount financed". Section 36a-690.



"Annual percentage rate". Section 36a-690.  
 "Annual percentage yield". Section 36a-316.  
 "Annuities". Section 36a-455a.  
 "Applicant". Section 36a-736.  
 "APR". Section 36a-746a.  
 "Assessment area". Section 36a-37.  
 "Assets". Section 36a-70.  
 "Associate". Section 36a-184.  
 "Associated member". Section 36a-458a.  
 "Authorized delegate". Section 36a-596, as amended by this act.  
 "Bank". Section 36a-30.  
 "Bankers' bank". Section 36a-70.  
 "Banking business". Section 36a-425.  
 "Basic services". Section 36a-437a.  
 "Billing cycle". Section 36a-565.  
 "Bona fide nonprofit organization". [Section] Sections 36a-487 and [section] 36a-655.  
 "Branch". Sections 36a-145, 36a-410 and 36a-435b.  
 "Branch office". Section 36a-485.  
 "Branch or agency net payment entitlement". Section 36a-428n.  
 "Branch or agency net payment obligation". Section 36a-428n.  
 "Broker". Section 36a-746a.  
 "Business and industrial development corporation". Section 36a-626.  
 "Business and property in this state". Section 36a-428n.  
 "Capital". Section 36a-435b.  
 "Cash advance". Section 36a-564.  
 "Cash price". Section 36a-770.  
 "Certificate of incorporation". Section 36a-435b.  
 "CHFA loan". Section 36a-760.  
 "Clerical or support duties". Section 36a-485.  
 "Closely related activities". Sections 36a-250 and 36a-455a.  
 "Collective managing agency account". Section 36a-365.  
 "Commercial vehicle". Section 36a-770.  
 "Community bank". Section 36a-70.  
 "Community credit union". Section 36a-37.  
 "Community development bank". Section 36a-70.  
 "Community reinvestment performance". Section 36a-37.  
 "Connecticut holding company". Sections 36a-53 and 36a-410.  
 "Consolidate". Section 36a-145.  
 "Construction loan". Section 36a-458a.  
 "Consumer". Sections 36a-155, 36a-676 and 36a-695.  
 "Consumer Credit Protection Act". Section 36a-676.  
 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800, as amended by this act.  
 "Consumer collection agency". Section 36a-800, as amended by this act.  
 "Consummation". Section 36a-746a.  
 "Control person". Section 36a-485.  
 "Controlling interest". Section 36a-276.  
 "Conventional mortgage rate". Section 36a-760.  
 "Corporate". Section 36a-435b.  
 "Credit". Sections 36a-645 and 36a-676.  
 "Credit manager". Section 36a-435b.  
 "Creditor". Sections 36a-676, 36a-695 and 36a-800, as amended by this act.

"Credit card", "cardholder" and "card issuer". Section 36a-676.  
 "Credit clinic". Section 36a-700.  
 "Credit rating agency". Section 36a-695.  
 "Credit report". Section 36a-695.  
 "Credit sale". Section 36a-676.  
 "Credit union service organization". Section 36a-435b.  
 "Credit union service organization services". Section 36a-435b.  
 "De novo branch". Section 36a-410.  
 "Debt". Section 36a-645.  
 "Debt adjustment". Section 36a-655.  
 "Debt mutual fund". Sections 36a-275 and 36a-459a.  
 "Debt securities". Sections 36a-275 and 36a-459a.  
 "Debtor". Section 36a-655.  
 "Deliver". Section 36a-316.  
 "Deposit". Section 36a-316.  
 "Deposit account". Section 36a-316.  
 "Deposit account charge". Section 36a-316.  
 "Deposit account disclosures". Section 36a-316.  
 "Deposit contract". Section 36a-316.  
 "Deposit services". Section 36a-425.  
 "Depositor". Section 36a-316.  
 "Depository institution". Section 36a-485.  
 "Derivative transaction". Section 36a-262.  
 "Director". Section 36a-435b.  
 "Dwelling". Section 36a-485.  
 "Earning period". Section 36a-316.  
 "Electronic payment instrument". Section 36a-596, as amended by this act.  
 "Eligible collateral". Section 36a-330.  
 "Eligible entity". Section 36a-34.  
 "Employee". Section 36a-485.  
 "Entity". Section 36a-380.  
 "Equity mutual fund". Sections 36a-276 and 36a-459a.  
 "Equity security". Sections 36a-276 and 36a-459a.  
 "Executive officer". Sections 36a-263 and 36a-469c.  
 "Expedited Connecticut bank". Section 36a-70.  
 "Experience in the mortgage business". Section 36a-488.  
 "Federal banking agency". Section 36a-485.  
 "Federal Credit Union Act". Section 36a-435b.  
 "Federal Home Mortgage Disclosure Act". Section 36a-736.  
 "FHA loan". Section 36a-760.  
 "Fiduciary". Section 36a-365.  
 "Filing fee". Section 36a-770.  
 "Finance charge". Sections 36a-690 and 36a-770.  
 "Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316, 36a-330, 36a-435b, 36a-736 and 36a-755.  
 "Financial records". Section 36a-41.  
 "First mortgage loan". Sections 36a-485, 36a-705 [, 36a-715] and 36a-725.  
 "Foreign banking corporation". Section 36a-425.  
 "Fully indexed rate". Section 36a-760b.  
 "General facility". Section 36a-580.  
 "Global net payment entitlement". Section 36a-428n.

"Global net payment obligation". Section 36a-428n.  
 "Goods". Sections 36a-535 and 36a-770.  
 "Graduated payment mortgage loan". Section 36a-265.  
 "Guardian". Section 36a-365.  
 "High cost home loan". Section 36a-746a.  
 "Holder". Section 36a-596, as amended by this act.  
 "Home banking services". Section 36a-170.  
 "Home banking terminal". Section 36a-170.  
 "Home improvement loan". Section 36a-736.  
 "Home purchase loan". Section 36a-736.  
 "Home state". Section 36a-410.  
 "Housing finance agency". Section 36a-487.  
 "Immediate family member". Section 36a-435b and section 36a-485.  
 "Independent contractor". Section 36a-485.  
 "Individual". Section 36a-485.  
 "Insider". Section 36a-454b.  
 "Installment loan contract". Sections 36a-535 and 36a-770.  
 "Insurance". Section 36a-455a.  
 "Insurance bank". Section 36a-285.  
 "Insurance department". Section 36a-285.  
 "Interest". Section 36a-316.  
 "Interest rate". Section 36a-316.  
 "Interim interest". Section 36a-746a.  
 "Investments". Section 36a-602, as amended by this act.  
 "Lender". Sections 36a-746a, 36a-760 and 36a-770.  
 "Lessor". Section 36a-676.  
 "License". Section 36a-626.  
 "Licensee". Sections 36a-596 and 36a-607, as amended by this act, and 36a-626.  
 "Limited branch". Section 36a-145.  
 "Limited facility". Section 36a-580.  
 "Loan broker". Section 36a-615.  
 "Loan processor or underwriter". Section 36a-485.  
 "Loss". Section 36a-330.  
 "Made in this state". Section 36a-770.  
 "Main office". Section 36a-485.  
 "Managing agent". Section 36a-365.  
 "Manufactured home". Section 36a-457b.  
 "Material litigation". Section [36a-596] 36a-498, as amended by this act.  
 "Member". Section 36a-435b.  
 "Member business loan". Section 36a-458a.  
 "Member in good standing". Section 36a-435b.  
 "Membership share". Section 36a-435b.  
 "Mobile branch". Sections 36a-145 and 36a-435b.  
 "Monetary value". Section 36a-596, as amended by this act.  
 ["Money order". Section 36a-596.]  
 "Money transmission". Section [36a-365] 36a-596, as amended by this act.  
 "Mortgage". Section 36a-760g.  
 "Mortgage broker". Sections 36a-485, 36a-705 and 36a-760.  
 "Mortgage correspondent lender". Section 36a-485.  
 "Mortgage insurance". Section 36a-725.  
 "Mortgage lender". Sections 36a-485, 36a-705 and 36a-725.

"Mortgage loan". Sections 36a-261, 36a-265, 36a-457b and 36a-736.  
"Mortgage loan originator". Section 36a-485.  
"Mortgage rate lock-in". Section 36a-705.  
["Mortgage servicing company". Section 36a-715.]  
"Mortgage servicer". Section 36a-715, as amended by this act.  
"Mortgagee". Section 36a-715, as amended by this act.  
"Mortgagor". Section 36a-715, as amended by this act.  
"Motor vehicle". Section 36a-770.  
"Multiple common bond membership". Section 36a-435b.  
"Municipality". Section 36a-800, as amended by this act.  
"Net outstanding member business loan balance". Section 36a-458a.  
"Net worth". Sections 36a-441a, 36a-458a and 36a-596, as amended by this act.  
"Network". Section 36a-155.  
"Nonprime home loan". Section 36a-760.  
"Nonrefundable". Section 36a-498.  
"Nontraditional mortgage product". Section 36a-489a.  
"Note account". Sections 36a-301 and 36a-456b.  
"Office". Sections 36a-23, 36a-316 and 36a-485.  
"Officer". Section 36a-435b.  
"Open-end credit plan". Section 36a-676.  
"Open-end line of credit". Section 36a-760.  
"Open-end loan". Section 36a-565.  
"Organization". Section 36a-800, as amended by this act.  
"Out-of-state holding company". Section 36a-410.  
"Outstanding". Section 36a-596, as amended by this act.  
"Passbook savings account". Section 36a-316.  
"Payment instrument". Section 36a-596, as amended by this act.  
"Periodic statement". Section 36a-316.  
"Permissible investment". Section 36a-596, as amended by this act.  
"Person". Section 36a-184 and section 36a-485.  
"Post". Section 36a-316.  
"Prepaid finance charge". Section 36a-746a.  
"Prime quality". Section 36a-596, as amended by this act.  
"Principal amount of the loan". Section 36a-485.  
"Processor". Section 36a-155.  
"Public deposit". Section 36a-330.  
"Purchaser". Section 36a-596, as amended by this act.  
"Qualified financial contract". Section 36a-428n.  
"Qualified public depository" and "depository". Section 36a-330.  
"Real estate". Section 36a-457b.  
"Real estate brokerage activity". Section 36a-485.  
"Records". Section 36a-17.  
"Registered mortgage loan originator". Section 36a-485.  
"Related person". Section 36a-53.  
"Relocate". Sections 36a-145 and 36a-462a.  
"Residential mortgage loan". [Section] Sections 36a-485 and 36a-715, as amended by this act.  
"Residential real estate". Section 36a-485.  
"Resulting entity". Section 36a-34.  
"Retail buyer". Sections 36a-535 and 36a-770.  
"Retail credit transaction". Section 42-100b.  
"Retail installment contract". Sections 36a-535 and 36a-770.

"Retail installment sale". Sections 36a-535 and 36a-770.  
"Retail seller". Sections 36a-535 and 36a-770.  
"Reverse annuity mortgage loan". Section 36a-265.  
"Sales finance company". Sections 36a-535 and 36a-770.  
"Savings department". Section 36a-285.  
"Savings deposit". Section 36a-316.  
"Secondary mortgage loan". Section 36a-485.  
"Security convertible into a voting security". Section 36a-184.  
"Senior management". Section 36a-435b.  
"Settlement agent". Section 36a-494.  
"Share". Section 36a-435b.  
"Simulated check". Section 36a-485.  
"Single common bond membership". Section 36a-435b.  
"Special mortgage". Section 36a-760c.  
"Social purpose investment". Section 36a-277.  
"Sponsored". Section 36a-485.  
"Standard mortgage loan". Section 36a-265.  
"Stored value". Section 36a-596, as amended by this act.  
"System". Section 36a-485.  
"Table funding agreement". Section 36a-485.  
"Tax and loan account". Sections 36a-301 and 36a-456b.  
"The Savings Bank Life Insurance Company". Section 36a-285.  
"Time account". Section 36a-316.  
"Travelers check". Section 36a-596, as amended by this act.  
"Troubled Connecticut credit union". Section 36a-448a.  
"Unique identifier". Section 36a-485.  
"Unsafe or unsound practice". Section 36a-608, as amended by this act.  
"Unsecured loan". Section 36a-615.  
"Value". Section 36a-603, as amended by this act.  
"Warehouse agreement". Section 36a-485.

Sec. 40. Subdivision (6) of subsection (c) of section 36a-65 of the 2012 Supplement to the General Statutes is repealed and the following repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

(6) A licensee under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-600, as amended by this act, 36a-628, 36a-656, 36a-671, section 24 of this act or 36a-801, as amended by this act, shall pay to the commissioner the actual cost of any examination of the licensee, as such cost is determined by the commissioner. If the licensee fails to pay such cost not later than sixty days after receipt of demand from the commissioner, the commissioner may suspend the license until such costs are paid.

Sec. 41. Subdivision (4) of subsection (a) of section 36a-412 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2014*):

(4) (A) The laws of this state, including laws regarding (i) community reinvestment pursuant to sections 36a-30 to 36a-33, inclusive; (ii) consumer protection pursuant to sections 36a-41 to 36a-45, inclusive, 36a-290 to 36a-304, inclusive, 36a-306, 36a-307, 36a-315 to 36a-323, inclusive, 36a-645 to 36a-647, inclusive, 36a-690, 36a-695 to 36a-700, inclusive, 36a-705 to 36a-707, inclusive, 36a-715 to 36a-718, inclusive, as amended by this act, and sections 24 to 37, inclusive, of this act, 36a-725, 36a-726, 36a-755 to 36a-759, inclusive, 36a-770 to 36a-788, inclusive, and 36a-800 to 36a-810, inclusive, as amended by this act; (iii) fair lending pursuant to sections 36a-737, 36a-740 and 36a-741; and (iv) establishment of interstate branches pursuant to section 36a-145 shall apply to any branch in this state of an out-of-state bank, other than a federally-chartered out-of-state bank, to the same extent as such laws apply to a branch in this state of an out-of-state national banking association.

(B) An out-of-state bank, other than a federally-chartered out-of-state bank, that establishes a branch in this state may conduct any activity at such branch that is permissible under the laws of the home state of such out-of-state bank, to the extent such activity is permissible either for a Connecticut bank or for a branch in this state of an out-of-state national banking association. If the commissioner determines that a branch in this state of an out-of-state bank, other than a federally-chartered out-of-state bank, is being operated in violation of any applicable law of this state or in an unsafe and unsound manner, the commissioner may take any enforcement action authorized under this title against such out-of-state bank to the same extent as if such branch were a Connecticut bank, provided the commissioner shall promptly give notice of such action to the home state banking regulator of such out-of-state bank and, to the extent practicable, shall consult and cooperate with such regulator in pursuing and resolving such action. For purposes of this subparagraph, "activity" includes acquiring or retaining any investment.

Sec. 42. Section 49-2a of the general statutes, as amended by section 1 of public act 12-106, is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

(a) On and after July 1, 1993, each state bank and trust company, national banking association, state or federally chartered savings and loan association, savings bank, insurance company and other mortgagee or mortgage [servicing company] servicer holding funds of a mortgagor in escrow for the

payment of taxes and insurance premiums with respect to mortgaged property located in this state shall pay interest on such funds, except as provided in section 49-2c, as amended by this act, at a rate of not less than the average rate paid, as of December 30, 1992, on savings deposits by insured commercial banks as published in the Federal Reserve Board Bulletin and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after January 1, 1994, until September 30, 2012, the rate for each calendar year shall be not less than the deposit index as defined in subsection (c) of this section for that year and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after October 1, 2012, the rate for each calendar year shall be not less than the deposit index as defined in subsection (c) of this section for that year and rounded to the nearest one-tenth of one percentage point. Interest payments shall be credited on the thirty-first day of December annually toward the payment of taxes or insurance premiums as the case may be, on such mortgaged property in the ensuing year. If the mortgage debt is paid prior to December thirty-first in any year, the interest to the date of payment shall be paid to the mortgagor. The provisions of this section shall apply only with respect to mortgages on owner-occupied residential property consisting of not more than four living units and housing cooperatives occupied solely by the shareholders thereof. Any mortgagee or mortgage [servicing company] servicer violating the provisions of this section shall be fined not more than one hundred dollars for each offense.

(b) Each mortgagee or mortgage [servicing company] servicer subject to the provisions of this section may contact the Department of Banking to ascertain the published deposit index to determine the minimum rate paid on funds of a mortgagor held in escrow for the payment of taxes and insurance premiums.

(c) The deposit index for each calendar year shall be equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board Bulletin in November of the prior year. The commissioner shall determine the deposit index for each calendar year and publish such deposit index in the Department of Banking news bulletin no later than December

fifteenth of the prior year. For purposes of this section, "Federal Reserve Board Bulletin" means the monthly survey of selected deposits published as a special supplement to the Federal Reserve Statistical Release Publication H.6 published by the Board of Governors of the Federal Reserve System or, if such bulletin is superseded or becomes unavailable, a substantially similar index or publication.

Sec. 43. Section 49-2c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2013*):

(a) In no event shall interest be required to be paid on escrow accounts where (1) there is a contract between the mortgagor and the mortgagee, entered into before October 1, 1975, which contains an express disclaimer of an obligation on the part of the mortgagee to pay interest on the accounts, (2) the payment of such interest would violate any federal law or regulation, (3) the accounts are maintained with a mortgage [servicing company] servicer, neither affiliated with nor owned in whole or in part by the mortgagee, under a written contract or any mortgage agreements underlying the contracts, entered into before October 1, 1975, which contract does not permit the mortgage [servicing company] servicer to earn or receive a return from the investment of the accounts or (4) the accounts are maintained in connection with mortgage loans entered into (A) on and after October 1, 1977, and before January 1, 1989, and which are serviced and held for sale for not more than one year by a mortgage [servicing company] servicer, neither affiliated with nor owned in whole or in part by the purchaser of the mortgage loan, and (B) on and after January 1, 1989, and which are serviced and held for sale for not more than six months by any such mortgage [servicing company] servicer, provided such mortgage [servicing company] servicer shall pay interest on an escrow account maintained in connection with such mortgage loan if the loan is sold within such specified periods and the mortgage [servicing company] servicer continues to service the loan.

(b) In no event shall interest be required to be paid at a rate in excess of two per cent per annum where (1) there is a contract between the mortgagor and the mortgagee entered into before October 1, 1977, which contains an express agreement to pay interest at the rate of two per cent per annum, or (2) such accounts are maintained in connection with mortgage loans entered into prior to October 1, 1977,



and which are serviced and held for sale for not more than one year by a mortgage [servicing company] servicer, neither affiliated with nor owned in whole or in part by the purchaser of the mortgage loan.

Sec. 44. Section 36a-800 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

As used in sections 36a-800 to 36a-810, inclusive, as amended by this act, unless the context otherwise requires:

(1) "Branch office" means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a consumer collection agency;

~~[(1)]~~ (2) "Consumer collection agency" means any person (A) engaged in the business of collecting or receiving for payment for others of any account, bill or other indebtedness from a consumer debtor, [or] (B) engaged, directly or indirectly, in the business of collecting any account, bill or other indebtedness from a consumer debtor for such person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired, or (C) engaged in the business of collecting or receiving for payment property tax from a property tax debtor on behalf of a municipality, including any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person or municipality of such indebtedness for the purpose of evading the provisions of sections 36a-800 to 36a-810, inclusive, as amended by this act. It includes persons who furnish collection systems carrying a name which simulates the name of a consumer collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the consumer debtor or property tax debtor to make payments directly to the creditor rather than to such fictitious agency. "Consumer collection agency" further includes any person who, in attempting to collect or in collecting such person's own accounts or claims from a consumer debtor, uses a fictitious name or any name other than such person's own name which would indicate to the consumer debtor that a third person is collecting or attempting to collect such account or claim. "Consumer collection agency" does not include (A) an individual employed on the staff of a licensed consumer collection agency, or by a creditor who is exempt from

licensing, when attempting to collect on behalf of such consumer collection agency, (B) persons not primarily engaged in the collection of debts from consumer debtors who receive funds in escrow for subsequent distribution to others, including, but not limited to, real estate brokers and lenders holding funds of borrowers for payment of taxes or insurance, (C) any public officer or a person acting under the order of any court, (D) any member of the bar of this state, and (E) a person who services loans or accounts for the owners thereof when the arrangement includes, in addition to requesting payment from delinquent consumer debtors, the providing of other services such as receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent. Any person not included in the definition contained in this subdivision is, for purposes of sections 36a-645 to 36a-647, inclusive, a "creditor", as defined in section 36a-645;

[(2)] (3) "Consumer debtor" means any natural person, not an organization, who has incurred indebtedness or owes a debt for personal, family or household purposes, including current or past due child support, or who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a personal property tax;

[(3)] (4) "Creditor" means a person, including a municipality, that retains, hires, or engages the services of a consumer collection agency;

(5) "Main office" means the main address designated on the application;

[(4)] (6) "Municipality" means any town, city or borough, consolidated town and city, consolidated town and borough, district as defined in section 7-324 or municipal special services district established under chapter 105a;

[(5)] (7) "Organization" means a corporation, partnership, association, trust or any other legal entity or an individual operating under a trade name or a name having appended to it a commercial, occupational or professional designation;

[(6)] (8) "Property tax" has the meaning given to the term in section 7-560;

[(7)] (9) "Property tax debtor" means any natural person or organization who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a property tax.

Sec. 45. Section 36a-801 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No person shall act within this state as a consumer collection agency [without a consumer collection agency license] unless such person has first obtained a consumer collection agency license for its main office and each branch office where such business is conducted. A consumer collection agency is acting within this state if it (1) has its place of business located within this state; (2) has its place of business located outside this state and collects from consumer debtors or property tax debtors who reside within this state for creditors who are located within this state; (3) has its place of business located outside this state and regularly collects from consumer debtors or property tax debtors who reside within this state for creditors who are located outside this state; or (4) has its place of business located outside this state and is engaged in the business of collecting child support for creditors located within this state from consumer debtors who are located outside this state.

(b) [(1)] Any person desiring to act within this state as a consumer collection agency shall make a written application to the commissioner for such license in such form as the commissioner prescribes. Such application shall be accompanied by [(A)] (1) a financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member duly authorized to execute such documents, [(B) (i)] (2) (A) the history of criminal convictions of the [(I)] (i) applicant; [(II)] (ii) partners, if the applicant is a partnership; [(III)] (iii) members, if the applicant is a limited liability company or association; or [(IV)] (iv) officers, directors and principal employees, if the applicant is a corporation, and [(ii)] (B) sufficient information pertaining to the history of criminal convictions of such applicant, partners, members, officers, directors and principal employees [in a form acceptable to the commissioner] as the commissioner deems necessary to make the findings under subsection (c) of this section, [(C)] (3) a license fee of eight hundred dollars, or in the case of an initial application that is filed not earlier than one year before the date such license will expire, a license fee of four hundred dollars, and [(D)] (4) an investigation fee of one hundred dollars. The commissioner shall cause to be made such inquiry and

examination as to the qualifications of each such applicant or any partner, member, officer, director or principal employee of the applicant as the commissioner deems necessary. The commissioner, in accordance with section 29-17a, may conduct a state and national criminal history records check of the applicant and of each partner, member, officer, director and principal employee of such applicant. Each applicant shall furnish satisfactory evidence to the commissioner that the applicant is a person of good moral character and is financially responsible. [If the commissioner is satisfied that such applicant is in all respects properly qualified and trustworthy and that the granting of such license is not against the public interest, the commissioner may issue to such applicant a license, in such form as the commissioner may adopt, to act within this state as a consumer collection agency.]

(c) If the commissioner finds, upon the filing of an application for a consumer collection agency, that (1) The financial responsibility, character, reputation, integrity and general fitness of the applicant and of the partners thereof if the applicant is a partnership, of the members if the applicant is a limited liability company or association, and of the officers, directors and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-800 to 36a-810, inclusive, as amended by this act; and (2) the applicant is solvent and no proceeding in bankruptcy, receivership or assignment for the benefit of creditors has been commenced against the applicant, the commissioner may thereupon issue the applicant a consumer collection agency license. If the commissioner fails to make such findings, the commissioner shall not issue a license and notify the applicant of the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the consumer collection agency business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Any such license issued by the commissioner shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed. The commissioner may renew such application, in the

commissioner's discretion, upon filing of a proper renewal application accompanied by a license fee of eight hundred dollars, and satisfactory proof that such applicant at that time possesses the required qualifications for the license. The commissioner may deny a renewal application if the commissioner finds that the applicant has been convicted of any misdemeanor involving any aspect of the consumer collection agency business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Such renewal application shall be filed with the commissioner on or before September first of the year in which the license expires. Any renewal application filed with the commissioner after September first shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under sections 36a-800 to 36a-810, inclusive, as amended by this act, by any person who was a licensee under said sections 36a-800 to 36a-810, inclusive, as amended by this act, and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee.

(d) To further the enforcement of this section and to determine the eligibility of any person holding a license, the commissioner may, as often as the commissioner deems necessary, examine the licensee's books and records, and may, at any time, require the licensee to submit such a financial statement for the examination of the commissioner, so that the commissioner may determine whether the licensee is financially responsible to carry on a consumer collection agency business within the intents and purposes of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any financial statement submitted by a licensee shall be confidential and shall not be a public record unless introduced in evidence at a hearing conducted by the commissioner.

(e) The applicant or licensee shall notify the commissioner, in writing, of any change in the information provided in its initial application for a license or most recent renewal application for such license, as applicable, not later than ten business days after the occurrence of the event that results in such information becoming inaccurate.

(f) The commissioner may deem an application for a license to act as a consumer collection agency abandoned if the applicant fails to respond to any request for information required under sections 36a-801 to 36a-810, inclusive, as amended by this act, or any regulations adopted pursuant to said sections 36a-801 to 36a-810, inclusive, as amended by this act. The commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information not later than sixty days after the date on which such request for information was made, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-801 to 36a-810, inclusive, as amended by this act.

[(2)] (g) If the commissioner determines that a check filed with the commissioner to pay a fee under subdivision (1) of this subsection has been dishonored, the commissioner shall automatically suspend the license or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51.

[(3)] (h) No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued. All fees required by this section shall be nonrefundable.

[(c)] (i) No person licensed to act within this state as a consumer collection agency shall do so under any other name or at any other place of business than that named in the license. Any change of location of a place of business of a licensee shall require prior written notice to the commissioner. Not more than one place of business shall be maintained under the same license but the commissioner may issue more than one license to the same licensee upon compliance with the provisions of sections 36a-800 to 36a-810, inclusive, as amended by this act, as to each new licensee. A license shall not be transferable or assignable. Any licensee holding, applying for, or seeking renewal of more than one license may, at its option, file the bond required under section 36a-802 separately for each place of business licensed, or to

be licensed, or a single bond, naming each place of business, in an amount equal to twenty-five thousand dollars for each place of business.

Sec. 46. (NEW) (*Effective October 1, 2013*) (a) Each consumer collection agency shall maintain its consumer debtor and creditor records so as to clearly identify the amounts and dates of all payments collected or received from consumer debtors and all remittances made to creditors. Consumer debtor and creditor records shall be kept so as to be readily available to the commissioner and retained for a period of not less than two years after the date of final entry thereon. All accounting records shall be maintained in accordance with generally accepted accounting practices. Each consumer collection agency engaged in the business of collecting child support shall maintain originals or copies of the written agreements entered into with the creditors to whom the child support is owed for a period of not less than two years after the date of the last payment made by the consumer debtor to the consumer collection agency.

(b) Each consumer collection agency shall deposit funds collected or received from consumer debtors for payment for others of an account, bill or other indebtedness in one or more trust accounts maintained at a bank, Connecticut credit union, federal credit union or an out-of-state bank that maintains in this state a branch as defined in section 36a-410 of the general statutes, which accounts shall be reconciled monthly. Such funds shall not be commingled with funds of the consumer collection agency or used in the conduct of the consumer collection agency's business. Such account shall not be used for any purpose other than (1) the deposit of funds received from consumer debtors, (2) the payment of such funds to creditors, (3) the refund of any overpayments to be made to consumer debtors and (4) the payment of earned fees to the consumer collection agency, which payment of earned fees shall be withdrawn on a monthly basis. Except for payments authorized by subdivisions (2), (3) and (4) of this subsection, any withdrawal from such account, including, but not limited to, any service charge or other fee imposed against such account by a depository institution, shall be reimbursed by the consumer collection agency to such account not more than thirty days after the withdrawal. Funds received from consumer debtors shall be posted to their respective accounts in accordance with generally accepted accounting practices.

Sec. 47. (NEW) (*Effective October 1, 2013*) Each consumer collection agency shall comply with the applicable provisions of the Fair Debt Collection Practices Act, 15 USC Section 1692 et seq., as from time to time amended, and any regulations adopted under such provisions, as from time to time amended. In addition to any other remedies provided by law, a violation of such federal law or regulation shall be deemed to be a violation of this section and a basis upon which the Banking Commissioner may take enforcement action pursuant to section 36a-804 of the general statutes.

Sec. 48. Section 36a-805 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No consumer collection agency shall: (1) Furnish legal advice or perform legal services or represent that it is competent to do so, or institute judicial proceedings on behalf of others; (2) communicate with consumer debtors or property tax debtors in the name of an attorney or upon the stationery of an attorney, or prepare any forms or instruments which only attorneys are authorized to prepare; (3) [purchase or] receive assignments of claims for the purpose of collection or institute suit thereon in any court; (4) assume authority on behalf of a creditor to employ or terminate the services of an attorney unless such creditor has authorized such agency in writing to act as such creditor's agent in the selection of an attorney to collect the creditor's accounts; (5) demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting a claim, whether or not such agency has previously attempted collection thereof; (6) solicit claims for collection under an ambiguous or deceptive contract; (7) refuse to return any claim or claims upon written request of the creditor, claimant or forwarder, which claims are not in the process of collection after the tender of such amounts, if any, as may be due and owing to the agency; (8) advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, unless such agency is acting as the assignee for the benefit of creditors; (9) refuse or fail to account for and remit to its clients all money collected which is not in dispute within sixty days from the last day of the month in which said money is collected; (10) refuse or intentionally fail to return to the creditor all valuable papers deposited with a claim when such claim is returned; (11) refuse or fail to furnish at intervals of not less than ninety days, upon the written request of



the creditor, claimant or forwarder, a written report upon claims received from such creditor, claimant or forwarder; [(12) commingle money collected for a creditor, claimant or forwarder with its own funds or use any part of a creditor's, claimant's or forwarder's money in the conduct of its business; (13)] (12) add any charge or fee for cost of collection to the amount of any claim which it receives for collection or knowingly accept for collection any claim to which any charge or fee has already been added to the amount of the claim unless: [the] (A) The consumer debtor is legally liable [therefor, in which case, the collection charge or fee may not be in excess of] for such charge or fee as determined by the contract between the consumer debtor and creditor, a copy of which must be obtained by the consumer collection agency from the creditor and maintained as part of the records of the consumer collection agency; and (B) the total charge or fee for cost of collection does not exceed fifteen per cent of the total amount actually collected [on] and accepted by the creditor as payment in full satisfaction of the debt; [(14)] (13) use or attempt to use or make reference to the term "bonded by the state of Connecticut", "bonded" or "bonded collection agency" or any combination of such terms or words, except that the word "bonded" may be used on the stationery of any such agency in type not larger than twelve-point; (14) fail to inform the consumer debtor that the debt may be subject to a statute of limitation in its initial communication with the consumer debtor; or [(15)] (14) engage in any activities prohibited by sections 36a-800 to 36a-810, inclusive, as amended by this act.

(b) No consumer collection agency shall impose a charge or fee for any child support payments collected through the efforts of a governmental agency. If the imposition of a charge or fee is permitted under section 36a-801b, no consumer collection agency shall impose a charge or fee for the collection of any child support overdue at the time of the contract in excess of twenty-five per cent of overdue support actually collected.

(c) (1) No consumer collection agency shall receive any property tax on behalf of a creditor that is a municipality, unless the consumer collection agency has procured from an insurer authorized to transact business in this state an insurance policy providing coverage against loss of money, securities or other property, including loss arising from any fraudulent or dishonest act of any employee, officer or director

of the consumer collection agency, with limits of at least two million dollars. It shall be the obligation of the municipality to ensure compliance with the requirements of this subdivision.

(2) A municipality that enters into an agreement with a consumer collection agency to collect and receive for payment property tax on behalf of the municipality may also require such consumer collection agency to file a bond with the municipality in an amount not exceeding the total amount of the property tax to be collected on behalf of the municipality. Such bond, the form of which shall be approved by the municipality, shall be written by a surety authorized to write bonds in this state and shall contain a provision requiring the surety to provide the municipality with written notice of cancellation of such bond. Such notice shall be sent by certified mail to the municipality at least thirty days prior to the date of cancellation. The bond shall be conditioned that such consumer collection agency shall well, truly and faithfully account for all funds collected and received by the consumer collection agency for the municipality pursuant to such agreement. If the municipality is damaged by the wrongful conversion of any property tax debtor funds received by the consumer collection agency, the municipality may proceed on such bond against the principal or surety on the bond, or both, to recover damages. The proceeds of the bond, even if commingled with the other assets of the consumer collection agency, shall be deemed by operation of law to be held in trust for the benefit of the municipality in the event of bankruptcy of the consumer collection agency and shall be immune from attachment by creditors and judgment creditors.

Sec. 49. Section 36a-808 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Whenever the commissioner has reason to believe that any consumer collection agency is engaging in this state in any act or practice in the conduct of such business which is not defined in section 36a-805, as amended by this act, and that such act or practice is unfair or deceptive, the commissioner may take action against such consumer collection agency in accordance with [section] sections 36a-50 and 36a-52.

*Statement of Purpose:* To enhance and update regulatory requirements of money transmitter licensees; regulate mortgage servicers in Connecticut effective January 1, 2014; aid in the administration and enforcement of the Department of Banking's laws concerning consumer collection agencies and its

ability to protect the public by bringing debt buyers within these provisions, by imposing certain enhanced application and record keeping requirements and by bolstering the enforcement authority of the Banking Commissioner; and make other conforming changes.

DRAFT



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

### **AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:**

**DEPARTMENT OF BANKING**

**Liaison:** James Heckman

**Phone:** 860-240-8105

**E-mail:** james.heckman@ct.gov

**Lead agency division requesting this proposal:**

**SECURITIES AND BUSINESS INVESTMENTS DIVISION**

**Agency Analyst/Drafter of Proposal:**

**Eric Wilder, Director**

**Title of Proposal**

### **AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT**

**Statutory Reference**

**§ 36b-21**

**Proposal Summary**

*Please see attached Proposal Summary and Bill Draft.*

*Please attach a copy of fully drafted bill (required for review)*

## **PROPOSAL BACKGROUND**

### **• Reason for Proposal**

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

### **• Origin of Proposal**

☒ **New Proposal**

☐ **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*



## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: DEPARTMENT OF BANKING

Agency Contact (name, title, phone): James Heckman

Date Contacted:

Approve of Proposal    ☐ YES    ☐ NO    ☐ Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?    ☐ YES    ☐ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None.

**State**

None.

**Federal**

None.

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



## **PROPOSAL SUMMARY**

### **AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT**

This proposal updates Section 36b-21 of the Connecticut General Statutes to reflect changes in federal law, and clarifies the notice filing requirements for closed-end funds whose securities offerings Congress preempted the states from reviewing.

Section 36b-16 of the Connecticut General Statutes requires that, before securities may be sold in the state, the offering must be 1) registered with the Commissioner; 2) exempt from registration under Section 36b-21; or 3) a "covered security." Section 36b-3(7) of the Connecticut General Statutes defines the term "covered security" to mean preempted securities offerings under Section 18 of the Securities Act of 1933.

#### **Section 1.**

Currently, Section 36b-21(a)(8)(A) exempts from securities registration any security "appearing on the list of over-the-counter and foreign securities approved for margin by the Board of Governors of the Federal Reserve System" that is not otherwise a covered security.

However, the Board of Governors has not published a list of marginable securities since 1998. (See, <http://www.federalreserve.gov/boarddocs/foreignmargin/about.htm>). The proposal amends Section 36b-21(a)(8)(A) to instead cross-reference the rules and regulations of the Board of Governors of the Federal Reserve System in determining margin status. This approach is consistent with the securities laws of other states.

Currently, Section 36b-21(a)(8)(B) exempts from securities registration warrants or rights to purchase the Board of Governors-listed securities described in Section 36b-21(a)(8)(A) as long as they are **not** "covered securities." Section 36b-21(a)(8)(C)(ii) exempts warrants or rights to purchase marginable Board of Governors-listed securities that **are** "covered securities." The proposal eliminates this redundancy by deleting Section 36b-21(a)(8)(C)(ii) and adding the phrase "regardless of whether such security is a covered security" to Section 36b-21(a)(8)(A).

Over the past few years, the structure and designations of various U.S. stock exchanges registered under the Securities Exchange Act of 1934 have changed. To accommodate any future name changes to the exchanges, the proposal includes a reference to successors in describing specific exchanges. This will minimize the need for future legislative amendments.

#### **Section 2.**

The proposal amends Section 36b-21(b)(14) of the Connecticut Statutes by updating a federal statutory reference. Specifically, Section 4(6) of the federal Securities Act of 1933 was renumbered to Section 4(5) by Section 944(a) of Pub. L. 111-203. This year, the Jumpstart Our Business Startups Act, Pub. L. 112-



106, Apr. 5, 2012, 126 Stat. 306, changed the numbering to Section 4(a)(5). The proposal changes the statutory reference from Section 4(6) to Section 4(a)(5).

### **Section 3.**

The federal National Securities Markets Improvement Act of 1996, P.L. 104-290 ("NSMIA"), preempted the states from registering investment company securities, but preserved the states' ability to require the filing of a notice rather than a registration. Section 18(b)(2) of the Securities Act of 1933, as amended by NSMIA, provided that: "a security is a covered security if such security is a security issued by an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940." Section 4 of the Investment Company Act of 1940 divides investment companies into three types: management companies, face-amount certificate companies; and unit investment trusts. Section 5 of the Investment Company Act of 1940, in turn, divides management companies into open-end companies (i.e. mutual funds) and closed-end companies.

When the Division amended Section 36b-21 (P.A. 97-220) in late 1997 to add a new subsection (c) [governing investment company notice filings] the amendment did not expressly mention the treatment of closed end companies. However, closed-end companies did file a Uniform Investment Company Notice Filing (Form NF) which had been developed by the states through the North American Securities Administrators Association for investment company notices. In addition, closed-end companies continued to remit the fee required by Section 36b-19(b) of the Connecticut General Statutes.

The proposal codifies existing practice by amending Section 36b-21(c) to expressly include closed-end funds and to cross-reference the fee provision in Section 36b-19(b). In addition, the proposal provides clarity on when the notice filing is effective and the renewal mechanism (if applicable). Setting the effectiveness date to the later of agency receipt or SEC effectiveness is consistent with the approach taken by other jurisdictions (e.g. Massachusetts), and is in conformity with past agency practice and industry expectations.



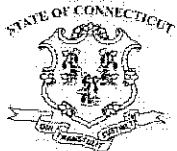
## AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of Section 36b-21 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The following securities are exempted from sections 36b-16 and 36b-22: (1) Any security including a revenue obligation issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; (2) any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; (3) any security that is not a "covered security" under Sections 3(a)(2) and 18(b)(4)(C) of the Securities Act of 1933 and that is issued by and represents or will represent an interest in or a debt of, or guaranteed by, any international banking institution, any bank, savings bank or savings and loan association organized under the laws of the United States, or any bank, savings institution or trust company organized and supervised under the laws of any state; (4) any security issued by and representing or that will represent an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any savings and loan or similar association organized under the laws of any state; (5) any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state; (6) any security issued or guaranteed by any federal credit union or any credit union, industrial loan association or similar association organized and supervised under the laws of this state; (7) any security issued or guaranteed by any railroad, other common carrier, public utility or public utility holding company that is (A) regulated with respect to its rates and charges by the United States or any state; (B) a public utility holding company registered under the Public Utility Holding Company Act of 1935 or a subsidiary of such a registered holding company within the meaning of said act; or (C) regulated with respect to the issuance or guarantee of the security by the United States, any state, Canada or any Canadian province or territory; (8) (A) any security that is (i) a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System; and (ii) an over-the counter security or a security issued by a foreign issuer; [appearing on the list of over-the-counter and foreign securities approved for margin by the Board of Governors of the Federal Reserve System which is not otherwise] , regardless of whether such security is a covered security, (B) any warrant or right to purchase or subscribe to any security described in subparagraph (A) of this





subdivision, and (C) any warrant or right to purchase or subscribe to any security listed or approved for listing upon notice of issuance on (i) the New York Stock Exchange, the American Stock Exchange, the Chicago Board Options Exchange and such other securities exchanges, including successors to such entities, as may be designated by the commissioner from time to time, or (ii) [the list of over-the-counter securities approved for margin by the Board of Governors of the Federal Reserve System where such security is a covered security, or (iii)] the national market system of the National Association of Securities Dealers Automated Quotation System or any successor thereto established pursuant to the Securities Exchange Act of 1934; (9) any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes, or as a chamber of commerce or trade or professional association; (10) any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal; (11) any security issued in connection with an employees' stock purchase, stock option, savings, pension, profit sharing or similar benefit plan; (12) any security issued by any cooperative apartment corporation incorporated under the laws of this state, located in and operating wholly within the borders of this state, in conjunction with the execution of proprietary leases; (13) any security issued by any person, organized and located in this state and operating exclusively for the purpose of promoting the industrial or commercial development of this state, or such development of any political subdivision thereof or such development of any regional planning area within this state, if such persons are approved by the Commissioner of Economic and Community Development and such approval has been certified, in writing, by said Commissioner of Economic and Community Development to the commissioner; such approval and certification shall be conclusive as to the nature and purpose of such person; (14) any security issued by the Connecticut Development Credit Corporation; (15) any security issued by any nonstock corporation, which is incorporated under the laws of this state as a cooperative marketing corporation and has its principal place of business in this state, and which is a farmers' cooperative organization, as defined in Section 521 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, if such corporation has been certified, in writing, by the Connecticut Department of Agriculture to the commissioner to be a bona fide cooperative marketing corporation; such certification shall be conclusive as to the nature and purpose of such corporation; (16) any security issued by all cooperative associations organized or existing under chapter 595; (17) any security issued by any person organized, located and operating within or from the borders of this state, when selling or offering for sale an interest in real estate limited partnerships or real estate syndications exclusively, if such person has obtained a permit from the Real Estate Commission; (18) any security which, prior to or within sixty



days after October 1, 1977, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offer of any such security by an issuer or underwriter subsequent to such sixty days; (19) any interest or participation in any common trust fund or similar fund established and maintained by a bank, or by one or more banks under common control as otherwise authorized by general statute, exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its fiduciary capacity; (20) any security issued by a worker cooperative corporation formed under the provisions of sections 33 418f to 33 418o, inclusive; (21) an equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a "covered security" under Section 18(b)(1) of the Securities Act of 1933; and (22) any other security that the commissioner may exempt, conditionally or unconditionally, on a finding that registration is not necessary or appropriate in the public interest or for the protection of investors.

Section 2. Subsection (b) of Section 36b-21 of the general statutes is repealed and the following is substituted in lieu thereof:

(b) The following transactions are exempted from sections 36b-16 and 36b-22: (1) Any isolated nonissuer transaction, whether effected through a broker dealer or not; (2) any nonissuer transaction by a registered agent of a registered broker dealer in a security of a class that has been outstanding in the hands of the public for at least ninety days provided, at the time of the transaction: (A) The security is sold at a price reasonably related to the current market price of the security; (B) the security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker dealer as an underwriter of the security; (C) a nationally recognized securities manual contains (i) a description of the business and operations of the issuer; (ii) the names of the issuer's officers and directors or, in the case of a non-United States issuer, the corporate equivalents of such persons in the issuer's country of domicile; (iii) an audited balance sheet of the issuer as of a date within eighteen months, or in the case of a reorganization or merger where the parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and (iv) an audited income statement for each of the issuer's immediately preceding two fiscal years, or for the period of existence of the issuer, if in existence for less than two years, or in the case of a reorganization or merger where the parties to the reorganization or merger had such audited income statement, a pro forma income statement; and (D) the issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, or designated for trading on the National Association of Securities Dealers Automated Quotation System, unless the issuer, including any predecessors of the issuer (i) has been engaged in continuous business for at least three years or (ii) has total assets of at least two million dollars based on an audited



balance sheet of the issuer as of a date within eighteen months, or in the case of a reorganization or merger where the parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet. The exemption in this subdivision shall not be available for any distribution of securities issued by a blank check company, shell company, dormant company or any issuer that has been merged or consolidated with or has bought out a blank check company, shell company or dormant company unless the issuer or any predecessor has continuously operated its business for at least the preceding five years and has had gross operating revenue in each of the preceding five years, including gross operating revenue of at least five hundred thousand dollars per year in three of the preceding five years; (3) any nonissuer distribution of an outstanding security if the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest or dividends on the security; (4) any nonissuer transaction effected by or through a registered broker dealer pursuant to an unsolicited order or offer to buy; but the commissioner may by regulation require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker dealer for a specified period or that the confirmation delivered to the purchaser or a memorandum delivered in connection therewith shall confirm that such purchase was unsolicited by the broker dealer or any agent of the broker dealer; (5) any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters; (6) any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit; (7) any transaction by an executor, administrator, state marshal, marshal, receiver, trustee in bankruptcy, creditors' committee in a proceeding under the Bankruptcy Act, guardian or conservator; (8) any transaction executed by a bona fide pledgee without any purpose of evading sections 36b-2 to 36b-34, inclusive; (9) any offer or sale to a bank and trust company, a national banking association, a savings bank, a savings and loan association, a federal savings and loan association, a federal savings bank, a credit union, a federal credit union, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker dealer, whether the purchaser is acting for itself or in some fiduciary capacity; (10) (A) subject to the provisions of this subdivision, any transaction not involving a public offering within the meaning of Section 4(2) of the Securities Act of 1933, but not including any transaction specified in the rules and regulations thereunder. (B) Subject to the provisions of this subdivision, any transaction made in accordance with the uniform exemption from registration for small issuers authorized in Section 19(d)(3)(C) of the Securities Act of 1933. (C) The exemptions set forth in subparagraphs (A) and (B) of this



subdivision shall not be available for transactions in securities issued by any blank check company, shell company or dormant company. (D) The exemptions set forth in subparagraphs (A) and (B) of this subdivision may, with respect to any security or transaction or any type of security or transaction, be modified, withdrawn, further conditioned or waived as to conditions, in whole or in part, conditionally or unconditionally, by the commissioner, acting by regulation, rule or order, on a finding that such regulation, rule or order is necessary or appropriate in the public interest or for the protection of investors. (E) A nonrefundable fee of one hundred fifty dollars shall accompany any filing made with the commissioner pursuant to this subdivision; (11) any offer or sale of a preorganization certificate or subscription if (A) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (B) the number of subscribers does not exceed ten, and (C) no payment is made by any subscriber; (12) any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than ninety days of their issuance, if (A) no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state, or (B) the issuer first files a notice, in such form and containing such information as the commissioner may by regulation prescribe, specifying the terms of the offer and the commissioner does not by order disallow the exemption within the next ten full business days; (13) any offer, but not a sale, of a security for which registration statements have been filed under both sections 36b-2 to 36b-34, inclusive, and the Securities Act of 1933, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either said sections or the Securities Act of 1933; (14) any transaction exempt under Section [4(6)] 4(a)(5) of the Securities Act of 1933, and the rules and regulations thereunder. The issuer shall, prior to the first sale, file with the commissioner a notice, in such form and containing such information as the commissioner may by regulation, rule or order prescribe. A nonrefundable fee of one hundred fifty dollars shall accompany any such filing made pursuant to this subdivision; (15) any transaction if all the following conditions are satisfied: (A) The offer and sale is effectuated by the issuer of the security; (B) the total number of purchasers of all securities of the issuer does not exceed ten. A subsequent sale of securities that (i) is registered under sections 36b-2 to 36b-34, inclusive, (ii) is sold pursuant to an exemption under said sections other than this subdivision, or (iii) involves covered securities, shall not be integrated with a sale pursuant to this exemption in computing the number of purchasers hereunder. For the purpose of this subdivision, each of the following is deemed to be a single purchaser of a security: A husband and wife, a child and the parent or guardian of such child when the parent or guardian holds the security for the benefit of the child, a corporation, a partnership, an association or other unincorporated entity, a joint stock company or a trust, but only if the corporation, partnership, association, unincorporated entity, joint stock company or trust was not formed for the purpose of purchasing the



security; (C) no advertisement, article, notice or other communication published in any newspaper, magazine or similar medium, broadcast over television or radio or communicated by other electronic means or any other general solicitation is used in connection with the sale; and (D) no commission, discount or other remuneration is paid or given directly or indirectly in connection with the offer and sale, and the total expenses, excluding legal and accounting fees, in connection with the offer and sale do not exceed one per cent of the total sales price of the securities. For purposes of this subdivision, a difference in the purchase price among the purchasers shall not, in and of itself, be deemed to constitute indirect remuneration; (16) any transaction exempt under Rule 701, 17 CFR Section 230.701 promulgated under Section 3(b) of the Securities Act of 1933; and (17) any other transaction that the commissioner may exempt, conditionally or unconditionally, on a finding that registration is not necessary or appropriate in the public interest or for the protection of investors.

Section 3. Subsection (c) of Section 36b-21 of the general statutes is repealed and the following is substituted in lieu thereof:

(c) (1) Any person who offers or sells a security that is a covered security under Section 18(b)(2) of the Securities Act of 1933 shall file with the commissioner, or with any other depository that the commissioner may designate by regulation or order, a notice for each series or portfolio prior to the initial offer of such security in this state, provided such notice requirement does not apply to any offer or sale described in subdivision (9) or (12) of subsection (b) of this section. The notice shall contain such information as the commissioner may require and shall be accompanied by a consent to service of process as required by subsection (g) of section 36b-33 **and, except as provided in subdivision (4) of this subsection,** a nonrefundable fee of five hundred dollars; (2) any notice filed pursuant to this subsection relating to a security issued by a face amount certificate company or unit investment trust, as such terms are defined in the Investment Company Act of 1940, shall be valid for a period of one year from the date that such security is declared effective by the Securities and Exchange Commission, without limitation as to the number of shares or aggregate amount. Such notice may be renewed annually thereafter upon submission of such information as the commissioner may require, not earlier than thirty days nor later than five days prior to the date upon which such previously filed notice is due to expire, together with a nonrefundable fee of five hundred dollars; (3) any notice filed pursuant to this subsection relating to a redeemable security issued by an open end management company, as defined in the Investment Company Act of 1940, shall be valid until December thirty first of the calendar year in which it was first filed, without limitation as to the number of shares or aggregate amount. Such notice may be renewed annually thereafter upon submission of such information as the commissioner may require together with a nonrefundable fee of five



hundred dollars; and (4) any notice filed pursuant to this subsection relating to a security issued by a closed-end company shall be effective for one year from the date of receipt by the commissioner or the effective date with the Securities and Exchange Commission, whichever is later, and shall be accompanied by the nonrefundable fee prescribed in section 36b-19(b) of this chapter. A closed-end fund whose securities will continue to be offered or distributed beyond the anniversary of its filing with the Commissioner or its effectiveness with the Securities and Exchange Commission, whichever is later, shall file such information as the commissioner may require and include the fee prescribed in section 36b-19(b) of this chapter.

**Statement of Purpose:** To update Section 36b-21 of the Connecticut General Statutes to reflect changes in federal law, and clarify the notice filing requirements for closed-end funds whose securities offerings Congress preempted the states from reviewing or registering.